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A thrift Investment Board will be established as an off budget agency to manage the thrift plan. It will be composed of five members: the Chairman of the Federal Reserve Board, the Secretary of the Treasury, the Director of OPM, and two representatives of Federal employee organizations appointed by the President. The Board will appoint an Executive Director who will be responsible for running the agency and directing the investments. The Board will not make any direct investment, but instead contract with investment firms to accomplish the task. The Board may establish other categories for investments in addition to the Government securities, fixed income, and common stock index investment funds specifically provided for in this plan. Except for the 2 years when the agency will receive Federal appropriations, the agency will be funded through a portion of investment returns.

Disability benefits differ according to eligibility for Social Security benefits. Vesting in either case is 18 months. If one is eligible for Social Security disability benefits or is ineligible only as a result of insufficient quarters of coverage, the employee is guaranteed 60 percent of his average salary totally offset by the receipt of Social Security benefits until reaching age 62. If the employee, as a result of nonwork related illness or injury, is no longer qualified for his position or another similar position, but is ineligible for Social Security benefits, he is entitled to a civil service disability benefit. This benefit provides 80 percent of his average pay in the first year after entitlement to disability benefits and 40 percent of his average salary in subsequent years until the employee recovers or reaches age 55.

Disability benefits are provided through a long term disability insurance plan purchased by the Government and administered by a third party. Using this approach to provide generous benefits for total disability and limited benefits for occupational disability is common in private industry. These benefits do not include the added amount available through an employee's thrift plan.

Preretirement survivor benefits are payable to a spouse of a deceased employee who had 5 years of service. If the deceased employee was eligible to retire, the survivor gets 50 percent of the accrued annuity with applicable early retirement reductions plus Social Security. If the deceased employee was ineligible to retire, the survivor will receive 50 percent of the deceased employee's accrued annuity at the point the employee would have been eligible to retire. In addition, the survivor receives a noncontributory amount of life insurance equal to the basic contributory amount available under current law through Federal Employees Group Life Insurance.

Post retirement survivor benefits follow the same policy as long as such

benefits are not waived. Those eligible will receive 50 percent of the annuity, in addition to any Social Security benefits payable.

Mr. President, hearings on this legislation have been scheduled before the Senate Governmental Affairs Committee on September 9, 10, and 11.

Mr. President, I ask unanimous consent that the bill, a sectional analysis, and a Congressional Research Service cost and benefit analysis be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1527

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*  
That this Act may be cited as the "Civil Service Pension Reform Act of 1985".

## PURPOSES

Sec. 2. The purposes of this Act are—

(1) to provide Federal employees with a retirement benefits plan which is comparable to good private sector retirement benefits plans;

(2) to promote financial stability and flexibility for the future of each Federal employee;

(3) to ensure a fully funded and financially sound Federal Government retirement benefits plan;

(4) to enhance portability of retirement assets between Federal jobs and jobs outside the Federal Government;

(5) to increase the options of each Federal employee with respect to retirement benefits plans;

(6) to encourage Federal employees to increase personal savings for retirement;

(7) to include Federal employees in the investment decisionmaking process with respect to the assets of the retirement system; and

(8) to extend financial protection from disability to additional Federal employees and to increase such protection for eligible Federal employees.

Sec. 101. (a) Title 5, United States Code, is amended by inserting after chapter 83 the following new chapter:

## CHAPTER 84—CIVIL SERVICE PENSION SYSTEM

## SUBCHAPTER I—DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

"Sec.

## "8401. Definitions.

## "8402. Civil Service Pension System; participation.

## "8403. Relationship to the Social Security Act.

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## "8412. Entitlement to deferred retirement.

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"8425. Administrative provisions relating to payments and elections.

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"8427. Investment of Thrift Savings Fund.

"8428. Accounting.

## "SUBCHAPTER IV—SURVIVOR BENEFITS

"8431. Basic plan spousal benefits relating to the death of a participant or former participant other than an annuitant.

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"8433. Survivor benefits under the thrift savings plan.

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"8436. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.

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"8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.

"8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.

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"8474. Reemployed annuitants under the Civil Service Retirement and Disability System.

"8475. Exemption from certain offset provisions of the Social Security Act.

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## "SUBCHAPTER VIII—CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT SYSTEM

"8491. Civil Service Thrift Investment Board.

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"8493. Executive Director.

"8494. Investment policy.

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- 8495. Administrative provisions.
- 8496. Fiduciary responsibilities; liability and penalty.
- SUBCHAPTER I—DEFINITIONS; CIVIL SERVICE PENSION SYSTEM
- 8497. Definitions

"Except as otherwise provided in this chapter, for the purposes of this chapter—

- (1) the term 'account', when used with respect to a participant or annuitant, means an account established and maintained under section 8428(a) of this title;

- (2) the term 'annuitant' means a former participant who is entitled to an annuity under this chapter and who has applied under this chapter for the payment of the annuity to commence;

- (3) the term 'average pay', when used with respect to a participant, means the largest annual rate resulting from averaging the participant's rates of basic pay in effect over any 5 consecutive years of creditable service or, in the case of an annuity under this chapter based on service of less than 5 years, over the total service, with each rate weighted by the period it was in effect;

- (4) the term 'basic pay', when used with respect to a participant—

- (A) means the lesser of—

- (i) the basic pay of the participant established pursuant to law, without regard to any provision of law (except sections 5303 and 5382(b) of this title) limiting the rate of pay actually payable in any pay period (including any provision of law restricting the use of appropriated funds); or

- (ii) the rate of basic pay payable for level I of the Executive Schedule; and

- (B) includes the items described in subparagraphs (A) through (D) of paragraph (3) of section 8331 of this title and does not include the items excluded by such paragraph;

- (5) the term 'Board' means the Civil Service Thrift Investment Board established by section 8491(a) of this title;

- (6) the term 'Civil Service Retirement and Disability Fund' means the Civil Service Retirement and Disability Fund referred to in section 8348 of this title;

- (7) the term 'court', when used with respect to a judgment, decree, order, or other judicial action, means any court of the United States, a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States, or any Indian court, having jurisdiction to issue such judgment, decree, or order or to take such other judicial action;

- (8) the term 'Director' means the Director of the Office of Personnel Management;

- (9) the term 'dynamic assumptions' means economic assumptions that are used in determining actuarial costs and liabilities of a retirement system and in anticipating the effects of long-term future—

- (A) investment yields;

- (B) increases in rates of basic pay, and

- (C) rates of price inflation;

- (10) the term 'earnings', when used with respect to the Thrift Savings Fund, means the amount of the gain realized or yield received from the investment of sums in such fund;

- (11) the term 'eligible former spouse', when used with respect to a participant or former participant, means a former spouse of the participant or former participant who was married to the participant or former participant for at least 9 months;

- (12) the term 'employee' means—

- (A) each individual referred to in subparagraphs (A), (E), (F), (H), (I), and (J) of section 8331(1) of this title, including an employee of the United States Park Police and an employee of the United States Secret Service; and

"(B) a Congressional employee as defined in section 2107 of this title, including a temporary Congressional employee;

any of whose service after December 31, 1983, is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, except that such term does not include any individual referred to in clause (i), (ii), (v), (vi), or (ix) of paragraph (1) of section 8331 of this title or in the undesignated material after clause (ix) of such paragraph, any individual excluded under section 8402(b)(2) of this title, or any individual who was subject to subchapter III of chapter 83 of this title on December 31, 1983, and has not commenced participation in the System pursuant to section 8471 of this title;

"(13) the term 'Executive Director' means the Executive Director appointed under section 8493(a)(1) of this title;

"(14) the term 'firefighter' means an employee the duties of whose position—

"(A) are primarily to perform work directly connected with the control and extinguishment of fires; and

"(B) are sufficiently rigorous that employment opportunities are required to be limited to young and physically vigorous individuals, as determined by the Director considering the recommendation of the employing agency;

"(15) the term 'Fund' means the Civil Service Retirement and Disability Fund;

"(16) the term 'Government' means the Federal Government and Gallaudet College;

"(17) the term 'law enforcement officer' means an employee, the duties of whose position—

"(A) are primarily (i) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or (ii) the protection of officials of the United States against threats to personal safety; and

"(B) are sufficiently rigorous that employment opportunities are required to be limited to young and physically vigorous individuals, as determined by the Director considering the recommendation of the employing agency;

"(18) the term 'loss', when used with respect to the Thrift Savings Fund, means the amount of the loss realized from the investment of sums in such fund;

"(19) the term 'lump-sum credit' has the same meaning as provided by section 8331(8) of this title;

"(20) the term 'Member' has the same meaning as provided in section 2106 of this title, except that such term does not include a person who (A) was a Member of Congress on December 31, 1983, and (B) has not commenced participation in the System pursuant to section 8471 of this title;

"(21) the term 'military reserve technician' means a member of one of the reserve components of the Armed Forces specified in section 261(a) of title 10 who—

"(A) is assigned to a civilian position as a technician in the administration and training of such reserve components or in the maintenance and repair of supplies issued to such reserve components; and

"(B) as a condition of employment in such position, is required to be a member of one of such reserve components serving in a specified military grade;

"(22) the term 'net earnings' means the excess of earnings over losses;

"(23) the term 'net losses' means the excess of losses over earnings;

"(24) the term 'normal cost' means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Office in accordance with gen-

erally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

"(25) the term 'Office' means the Office of Personnel Management;

"(26) the term 'participant' means an employee or Member or a person who is receiving disability benefits under subchapter V of this chapter;

"(27) the term 'price index' has the same meaning as provided in section 8331(15) of this title;

"(28) the term 'service', when used with respect to a participant or former participant, means—

"(A) employment as a participant;

"(B) subject to section 8419(a) of this title, military service as provided in section 8332(c) of this title; and

"(C) service that is creditable under subchapter III of chapter 83 of this title, but only to the extent provided in section 8472(a) of this title;

"(29) the term 'supplemental liability' means the estimated excess of—

"(A) the actuarial present value of all future benefits payable from the Fund under this chapter, over

"(B) the sum of—

"(i) the actuarial present value of the future contributions to be made on behalf of participants pursuant to section 8418(a) of this title; and

"(ii) the balance in the Fund attributable to the System on the date the supplemental liability is determined; and

"(30) the term 'System' means the Civil Service Pension System described in section 8402(a) of this title.

•8402. Civil Service Pension System; participation

"(a) The provisions of this chapter comprise the Civil Service Pension System.

"(b)(1) Except as provided in paragraph (2) of this subsection, each employee and Member shall be a participant in the System.

"(2)(A) The Office may exclude from the operation of this chapter an employee or group of employees in or under an Executive agency whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2) of this title).

"(B) The Architect of the Capitol may exclude from the operation of this chapter an employee under the Office of the Architect of the Capitol whose employment is temporary or of uncertain duration.

"(C) The Librarian of Congress may exclude from the operation of this chapter an employee under the Library of Congress whose employment is temporary or of uncertain duration.

•8403. Relationship to the Social Security Act

"Except as otherwise provided in this chapter, the benefits payable under the System are in addition to the benefits payable under the Social Security Act.

SUBCHAPTER II—BASIC PLAN

•8411. Entitlement to immediate retirement

"(a) An employee or a Member who is separated from Government employment after becoming 55 years of age and completing 10 years of service is entitled to an immediate annuity.

"(b) An employee or a Member who is separated from Government employment after becoming 62 years of age and completing 5 years of service is entitled to an immediate annuity.

"(c) An employee who is separated from Government employment after completing 25 years of service as a law enforcement of-

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ficier or firefighter, or any combination of such service totaling at least 25 years, is entitled to an immediate annuity.

"(d) An employee who is separated from Government employment after completing 25 years as an air traffic controller is entitled to an immediate annuity.

"(e)(1) Except as provided in paragraphs (2) and (3) of this subsection, any employee who has completed 25 years of service, or is not less than 50 years of age and has completed 20 years of service, and who—

"(A) is separated from Government employment involuntarily, except by removal for cause on charges of misconduct or delinquency, or

"(B) while serving in a geographic area designated by the Director, is voluntarily separated from Government employment during a period that (as determined by the Director)—

"(i) the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, and

"(ii) a significant percentage of the total number of employees serving in such agency will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53 of this title or comparable provisions), is entitled to an immediate annuity.

"(2) An employee described in paragraph (1)(A) of this subsection is not entitled to an annuity under this subsection if the employee has declined a reasonable offer of another position in the employee's agency for which the employee is qualified and the offered position is not lower than 2 grades or pay levels below the employee's grade or pay level and is within the employee's commuting area.

"(3) Paragraph (1) of this subsection shall not apply to a firefighter, law enforcement officer, or air traffic controller who has completed 25 years of service.

"(f) An annuity authorized by this section is computed under sections 8413 through 8415 of this title.

## \*8412. Entitlement to deferred retirement

"(a) A participant who is under 55 years of age and separates from Government employment after completing 10 years of service is entitled to an annuity to commence on or after the date the participant becomes 55 years of age but not later than the date the participant becomes 62 years of age, as elected by the participant under rules prescribed by the Office.

"(b) A participant who is under 62 years of age and separates from Government employment after completing 5 years of service and before completing 10 years of service is entitled to an annuity to commence on the date the participant becomes 62 years of age.

"(c) An annuity authorized by this section is computed under sections 8413 through 8415 of this title.

## \*8413. Computation of annuity

"(a)(1) Except as provided in section 8414 or 8415 of this title, the amount of the annuity an annuitant is entitled to receive under this subchapter shall be equal to the product of 1 percent of the former participant's average pay (while serving as an employee or Member) multiplied by the participant's total service.

"(2) For the purposes of computing the amount of an annuity under paragraph (1) of this subsection, the total service of a participant who separates from Government employment entitled to an immediate annuity or who dies leaving a survivor or survivors entitled to a survivor annuity under this chapter includes days of unused sick leave credited to the participant under a

formal leave system to the same extent that unused sick leave is credited in computing an annuity of a person who is subject to subchapter III of chapter 83 of this title, as provided in section 8339(m) of this title.

"(b)(1) A former participant who is entitled to receive an annuity under subsection (c) or (d) of section 8411 of this title and is at least 55 years of age and not more than 62 years of age shall be entitled to receive an annuity supplement, in addition to the amount of the annuity computed under subsection (a) of this section, while the former participant is under 62 years of age.

"(2) The amount of the annuity supplement payable to a former participant under paragraph (1) of this subsection shall be equal to the estimated amount of the benefits that—

"(A) the former participant would be entitled to receive under title II of the Social Security Act if the participant were 62 years of age on the date the annuity referred to in such paragraph commences; and

"(B) is attributable to service referred to in section 8411(c) or 8411(d) of this title, as the case may be, computed on the date such annuity commences and increased as provided in paragraph (3) of this subsection.

"(3) Effective on January 1 of each year, the amount of the annuity supplement payable to a former participant under this subsection shall be increased by the percentage increase, if any, in the SSA average wage index (as defined in section 215(i)(1)(G) of the Social Security Act) published for November of the preceding year over such index published for November of the next preceding year.

"(c) In computing under this section the annuity of an individual who has performed service on less than a full-time basis, such service shall be credited on a proportional basis equal to the fraction that such service is of full-time service, and the annual rate of basic pay that would be payable for full-time service in the position shall be deemed to be the rate of basic pay.

## \*8414. Reduction for early retirement

"The annuity computed under section 8413(a) of this title (without regard to this section or section 8415 of this title)—

"(1) for an annuitant, other than an annuitant referred to in paragraph (2) or (3) of this section, who is under 62 years of age on the date on which the annuitant's annuity commences shall be reduced by one-sixth of 1 percent for each month that the annuitant is under such age on such date;

"(2) for an annuitant, other than an annuitant entitled to an immediate annuity under section 8411(e) of this title and an annuitant referred to in paragraph (3) of this subsection, who is at least 55 years of age and is under 62 years of age on the date on which the annuitant's annuity commences and has not completed 30 years of service shall be reduced by five-twelfths of 1 percent for each month that the annuitant is under 62 years of age on such date; and

"(3) for an annuitant who is entitled to an immediate annuity under subsection (c) or (d) of section 8411 of this title or who separated from Government employment as a military reserve technician shall be reduced by five-twelfths of 1 percent for each month that the annuitant is under 55 years of age on the date on which the annuitant's annuity commences.

## \*8415. Reduction for survivor annuities

"(a) The annuity of an annuitant computed under section 8413 of this title and, if appropriate, under section 8414 of this title shall be reduced by an estimated amount such that the actuarial present value of the retirement benefits expected to be payable

to the annuitant under this subchapter and all survivor benefits expected to be payable out of the Fund with respect to the annuitant is equal to the actuarial present value of the retirement benefits that would be expected to be payable under this subchapter to the annuitant pursuant to the method referred to in section 8416(a)(2)(A) of this title, as determined under regulations prescribed by the Office.

"(b) A reduction in the annuity of an annuitant pursuant to subsection (a) of this section shall be adjusted, as appropriate to carry out such subsection, to reflect any change in circumstances relating to entitlement to a survivor annuity, including any election made pursuant to section 8434(a), 8436(b), or 8436(c) of this title.

## \*8416. Methods of Payment

"(a)(1) The Office shall prescribe methods of payment of annuities under this subchapter.

"(2) The methods of payment prescribed under paragraph (1) of this subsection shall include, but not be limited to—

"(A) a method which provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

"(B) a method which provides for the payment of a monthly annuity to an annuitant and a monthly survivor annuity equal to 50 percent of the annuitant's annuity on the date of the annuitant's death (computed without regard to an election under section 8417(a) of this title) to the annuitant's surviving spouse, if any; and

"(C) a method which provides for the payment of a monthly annuity to an annuitant and a monthly survivor annuity equal to 50 percent of the annuitant's annuity on the date of the annuitant's death (computed without regard to an election under section 8417(a) of this title) to an individual who is designated by the annuitant and who has an insurable interest in the annuitant.

"(b)(1) Subject to paragraphs (2) and (3) of this subsection—

"(A) under such regulations as the Office shall prescribe, a participant or former participant who is applying for an annuity under this subchapter to commence shall elect one of the methods of payment prescribed by the Office under subsection (a) of this section; and

"(B) the annuity of an annuitant under this subchapter shall be paid in accordance with the method of payment elected by the annuitant pursuant to subparagraph (A) of this paragraph.

"(2)(A) A participant or former participant who is married on the date on which the participant or former participant applies for an annuity under this subchapter to commence may elect a method of payment other than the method described in subsection (a)(2)(B) of this section only if the participant or former participant and the spouse of the participant or former participant jointly waive a survivor annuity under the method described in such subsection (a)(2)(B).

"(B) A waiver shall not be effective for the purpose of subparagraph (A) of this paragraph unless the waiver is made in writing, is notarized, and is filed with the Office on or before the date the annuity to which the waiver relates commences.

"(C) A waiver made in accordance with this paragraph shall be irrevocable.

"(3) In the case of an annuitant who is subject to paragraph (2)(A) of this subsection and fails to make an election under paragraph (1) of this subsection, an annuity and survivor annuity shall be paid under the method of payment described in subsection (a)(2)(B) of this section.

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"(4) A participant or former participant may elect the method prescribed under subsection (a)(2)(C) of this section only if the participant or former participant is in good health on the date the election is made, as determined by the Office.

## "§ 8417. Level benefits option

"(a) Under regulations prescribed by the Office, an annuity payable under this subchapter to a participant who is separating from Government employment entitled to an immediate annuity under subsection (a) of section 8411 of this title and is less than 62 years of age may be adjusted as provided in subsection (b) of this section, if elected by the participant on or before the date of separation.

"(b)(1) Subject to paragraph (2) of this subsection, an annuity payable under this subchapter to an annuitant who has made an election authorized by subsection (a) of this section may be increased during the period the annuitant is not less than 55 years of age and is less than 62 years of age and may be reduced on and after the date the annuitant is not less than 62 years of age as appropriate to provide the annuitant an annuity under this subchapter, during each month of such period, in an amount which approximately equals the total amount of the monthly benefits payable to the annuitant under this subchapter and section 202(a) of the Social Security Act after such date.

"(2) The actuarial present value of the benefits expected to be paid under this subchapter to the annuitant as provided in paragraph (1) of this subsection on and after the date the annuitant becomes 55 years of age may not exceed the actuarial present value of the benefits that would be expected to be paid under this subchapter to such participant on and after such date if the adjustments authorized by such paragraph were not made, as determined under regulations prescribed by the Office.

## "§ 8418. Funding

"(a)(1) Each agency of the Government employing a participant shall contribute to the Fund an amount equal to the sum of—

"(A) the normal cost, as determined by the Office, of (i) each participant who is employed by the agency, and (ii) each disabled participant who is entitled to benefits under section 8442(a) of this title and was employed by the agency on the date the participant became disabled (computed using average pay as increased in accordance with section 8442(b)(2)(C) of this title); and

"(B) the normal cost, as determined by the Office, of the annuity supplement under section 8413(b) of this title for each law enforcement officer, firefighter, and air traffic controller who is employed by the agency.

"(2) The contribution required by paragraph (1) of this subsection to be made by an agency shall be made from the appropriation or fund used to pay the agency's participants, or, in the case of an elected participant, from an appropriation or fund available for payment of other salaries of the office or establishment of the participant. In the case of a participant in the legislative branch who is paid by the Clerk of the House of Representatives, contributions for the benefit of such participant shall be paid from the contingent fund of the House of Representatives.

## "(b)(1) The Office shall compute—

"(A) the amount of the supplemental liability of the Fund relating to participants and annuitants other than participants and annuitants referred to in subparagraph (B) of this paragraph, and

"(B) the amount of the supplemental liability of the Fund relating to participants and annuitants who are active or retired of-

ficers or employees of the United States Postal Service,

as of the close of each fiscal year beginning after September 30, 1987.

"(2) The amounts of any supplemental liability—

"(A) computed pursuant to paragraph (1)(A) of this subsection with respect to participants and annuitants referred to in such paragraph (1)(A) of this subsection, and

"(B) computed pursuant to paragraph (1)(B) of this subsection with respect to participants and annuitants referred to in such paragraph (1)(B),

shall each be amortized in thirty annual installments.

"(3) At the end of each fiscal year, the Office shall notify—

"(A) the Secretary of the Treasury of the amount of the annual installment computed under paragraph (2)(A) of this subsection for such fiscal year, and

"(B) the Postmaster General of the United States of the amount of the annual installment computed pursuant to paragraph (2)(B) of this subsection for such fiscal year.

"(4)(A) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit the amount of the annual installment computed for such fiscal year pursuant to paragraph (2)(A) to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated.

"(B) Upon receiving a notice required by paragraph (3)(B) of this subsection, the United States Postal Service shall pay to the Fund the amount of the annual installment specified in the notice.

"(5) For the purpose of carrying out paragraph (1) of this subsection with respect to any fiscal year, the Office may—

"(A) require the Board of Actuaries of the Civil Service Retirement System to make actuarial determinations and valuations, make recommendations, and maintain records in the same manner as provided in section 8347(f) of this title; and

"(B) use the latest actuarial determinations and valuations made by such Board of Actuaries.

## "§ 8419. Funding of annuity attributable to military service

"(a) Except in the case of an individual making an election under section 8471(a)(1)(A) of this title, a participant's or former participant's service shall include credit for military service as provided in section 8332(c) of this title without regard to whether the participant or former participant has made a deposit covering such military service as provided in section 8334(j) of this title.

"(b) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall reimburse the Fund from sums in the Department of Defense Military Retirement Fund (established by section 1461(a) of title 10), which are hereby made available to pay the reimbursement, for the normal cost relating to the creditable military service of employees and Members who became participants during such fiscal year, actuarially adjusted to the date of payment, as determined by the Office.

"(c) At the end of each fiscal year the Office shall compute the amount of the reimbursement required by subsection (b) of this section for the fiscal year and shall notify the Secretary of the Treasury of that amount.

## "SUBCHAPTER III—THRIFT SAVINGS PLAN

## "§ 8421. Contributions

"(a)(1) Each participant may contribute to the Thrift Savings Fund in any year an

amount not exceeding 10 percent of the participant's annual rate of basic pay.

"(2) Each participant receiving disability benefits under subchapter V of this chapter may, until becoming 62 years of age (in the case of a person who is disabled within the meaning of section 8441(4)(A) of this title) or until becoming 55 years of age (in the case of a person who is disabled within the meaning of section 8441(4)(B) of this title), contribute to the Thrift Savings Fund in any year an amount not exceeding 10 percent of the amount of the former participant's disability benefits payable under such subchapter during such year.

"(3) Any contribution under this subsection shall be made only pursuant to a program of regular contributions under regulations prescribed by the Board.

"(4) At least once each year, a participant may modify the amount contributed pursuant to paragraph (1) or (2) of this subsection, as the case may be, under regulations prescribed by the Board.

"(b) The employing agency of a participant who contributes to the Thrift Savings Fund under subsection (a) of this section for any pay period, or, in the case of a disabled participant who contributes to such fund under such subsection for any disability benefits payment period, the employing agency of the participant on the date the participant became disabled (as defined in section 8441(4) of this title), shall contribute to the Thrift Savings Fund for the benefit of such participant or disabled participant at the end of such period an amount equal to such portion of the amount of the participant's contribution as does not exceed 5 percent of the amount of the gross pay or gross disability benefits, as the case may be, payable for such period.

"(c) The sums required to be contributed to the Thrift Savings Fund by an employing agency under subsection (b) of this section for the benefit of a participant shall be paid from the appropriations or funds available to such agency to pay the basic pay of participants or, in the case of an elected participant, from an appropriation or fund available for payment of other salaries of the participant's office or establishment. In the case of a participant in the legislative branch who is paid by the Clerk of the House of Representatives, contributions for the benefit of such participant shall be paid from the contingent fund of the House of Representatives.

## "§ 8422. Code of 1954—

"(1) any amount of the participant's pay which is contributed to the Thrift Savings Fund; and the amount of the employing agency's matching contributions, shall not be included in the gross income of the participant; and

"(2) the Thrift Savings Fund shall be treated, for purposes of determining when amounts in such Fund are included in the income of any participant, as described in section 401(a) of such Code.

"(e) Subsection (d)(1) of this section shall not be construed to provide that any amount of the participant's pay which is contributed to the Thrift Savings Fund shall not be included in the term 'wages' for purposes of section 209 of the Social Security Act or section 3121(a) of the Internal Revenue Code of 1954.

## "§ 8422. Vesting

"(a)(1) A participant who separates from Government employment shall be entitled to an amount equal to—

"(A) the total amount of the contributions made under section 8421(a) of this title plus the total amount of the net earnings in the

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Thrift Savings Fund, or minus the total amount of the net losses, attributable to such contributions; and

"(B) the applicable percentage of the amount equal to the total amount contributed to the Thrift Savings Fund for the benefit of the participant under section 8421(b) of this title plus the total amount of the net earnings in the Thrift Savings Fund, or minus the total amount of the net losses, attributable to such contributions, as provided in subsection (b) of this section.

"(2) The amount to which a participant is entitled under paragraph (1) of this subsection shall be payable in accordance with the election made by the participant pursuant to section 8423 of this title.

"(b)(1) For the purpose of subsection (a)(1)(B) of this section, except as provided in paragraph (2) of this subsection, the applicable percentage for a participant separating from Government employment after having been a participant in the System for a period set forth under column I of the table below is the percentage set forth under column II of the table below opposite the description of such period:

"Column I"	"Column II"
Period for which the participant has been a participant in the System:	Applicable percentage
Less than 1 year.....	
Not less than 1 year, but less than 2 years.....	20
Not less than 2 years, but less than 3 years.....	40
Not less than 3 years, but less than 4 years.....	60
Not less than 4 years, but less than 5 years.....	80
Not less than 5 years.....	100.

"(2) For the purposes of subsection (a)(1)(B) of this section—

"(A) the percentage applicable in the case of any participant who dies while employed by the Government shall be 100 percent; and

"(B) in the case of a participant making contributions under section 8421(a)(2) of this title, the period for which the person has been a participant in the System shall include periods for which such contributions were made.

"(C) When an election is made by a participant under section 8423(c) of this title, the amount equal to the excess of—

"(1) the sum of—

"(A) the amounts contributed to the Thrift Savings Fund with respect to the participant under section 8421 of this title; and

"(B) the net earnings in the Thrift Savings Fund attributable to such contributions, over

"(2) the amount in the Thrift Savings Fund paid or reserved for payment to or with respect to the participant pursuant to section 8423(c) of this title,

shall be transferred to the Treasury of the United States for credit to Miscellaneous Receipts.

**"§ 8423. Entitlement and elections relating to entitlement**

"(a) Any participant who separates from Government employment entitled to an immediate annuity under section 8411 of this title is entitled and may elect—

"(1) to receive an immediate annuity from the Thrift Savings Fund;

"(2) to defer the commencement of the payment of an annuity from the Thrift Savings Fund until such date as the participant specifies;

"(3) to withdraw, in one or more payments, the amount of the balance credited to the participant's account in the Thrift Savings Fund; or

"(4) to transfer the amount of the balance in the account to an individual retirement account or other qualified plan (within the meaning of the Internal Revenue Code of 1954) of the participant.

"(b) Any participant who separates from Government employment entitled to a deferred annuity under section 8412 of this title is entitled and may elect—

"(1) to receive an annuity from the Thrift Savings Fund to commence on the first date the participant is entitled to receive the deferred annuity;

"(2) to defer the commencement of the payment of an annuity from the Thrift Savings Fund until a date after the first date the participant is entitled to receive the deferred annuity, as specified by the participant;

"(3) to withdraw in one or more payments, on or after the first date the participant is entitled to receive the deferred annuity, the amount of the balance credited to the participant's account in the Thrift Savings Fund; or

"(4) to transfer the amount of the balance in the account to an individual retirement account or other qualified plan (within the meaning of the Internal Revenue Code of 1954) of the participant.

"(c) Any participant who separates from Government employment before becoming entitled to an annuity under section 8411 or 8412 of this title is entitled and may elect—

"(1) to receive an annuity from the Thrift Savings Fund to commence when the participant becomes 62 years of age;

"(2) to withdraw, in one or more payments, the amount computed under section 8422(a)(1) of this title, payable when the participant becomes 62 years of age; or

"(3) to transfer such amount to an individual retirement account or other qualified plan (within the meaning of the Internal Revenue Code of 1954) of the participant.

"(d)(1) Subject to paragraph (2) of this subsection, any participant making an election pursuant to subsection (a)(2) or (b)(2) of this section may modify the date specified in the election or in a previous modification under this subsection.

"(2) Any modification of an election under paragraph (1) of this subsection may not be made on or after the date specified in the election or the latest modification made under such paragraph and may not specify a date for the commencement of annuity payments earlier than one month after the date the modification is filed with the Executive Director.

**"§ 8424. Annuities: methods of payment; election; and computation**

"(a)(1) The Board shall prescribe methods of payment of annuities under this subchapter.

"(2) The methods of payment prescribed under paragraph (1) of this subsection shall include, but not be limited to—

"(A) a method which provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

"(B) a method which provides for the payment of a monthly annuity to an annuitant for the joint lives of the annuitant and the spouse of the annuitant and an appropriate monthly annuity to the one of them who survives the other of them for the life of the survivor;

"(C) a method described in subparagraph (A) of this paragraph which provides annual increases in the amount of the annuity payable;

"(D) a method described in subparagraph (B) of this paragraph which provides annual increases in the amount of the annuity payable; and

"(E) a method providing for the payment of a monthly annuity—

"(i) to the annuitant for the joint lives of the annuitant and an individual, designated by the annuitant under regulations prescribed by the Board, who has an insurable interest in the annuitant; and

"(ii) to the one of them who survives the other of them for the life of the survivor.

"(b) Subject to paragraph (2) of this subsection, under such regulations as the Board shall prescribe, an annuitant electing under section 8423 of this title to receive an annuity from the Thrift Savings Fund shall elect, on or before the date on which the annuitant's annuity under this subchapter commences, one of the methods of payment prescribed by the Board under subsection (a) of this section.

"(c) The amount of an annuity payable under this subchapter pursuant to the method elected under subsection (b) of this section shall be determined on an actuarial basis under regulations prescribed by the Board.

**"§ 8425. Administrative provisions relating to payments and elections**

"(a) The Executive Director shall make or provide for payments and transfers in accordance with an election of a participant under section 8423 or 8424(b) of this title.

"(b) Any election under section 8423 or 8424(b) of this title shall be in writing and shall be filed with the Executive Director in accordance with regulations prescribed by the Board.

"(c) Notwithstanding any other provision of this section, an election or modification of an election under any provision of this subchapter shall not be effective if the election or modification would result in a violation of the terms of an applicable court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to a court decree of divorce, annulment, or legal separation, as determined by the Executive Director.

**"§ 8426. Thrift Savings Fund**

"(a) There is established in the Treasury of the United States a Thrift Savings Fund.

"(b) The Thrift Savings Fund consists of the sum of all amounts contributed under section 8421 of this title increased by the total net earnings from investments of sums in the Thrift Savings Fund or reduced by the total net losses from investments of the Thrift Savings Fund.

"(c) The sums in the Thrift Savings Fund are appropriated and shall remain available without fiscal year limitation—

"(1) to invest under section 8427 of this title;

"(2) to pay benefits under this subchapter;

"(3) to pay the administrative expenses of the Civil Service Thrift Investment Management System prescribed in subchapter VIII of this chapter; and

"(4) to make loans to participants as authorized under subsection (e) of this section.

"(d)(1) Except as provided in paragraph (2) of this subsection, sums in the Thrift Savings Fund are not subject to execution, levy, attachment, garnishment, or other legal process.

"(2) Moneys due or payable from the Thrift Savings Fund to any individual and, in the case of an individual who is a participant, moneys which the individual would be entitled to receive under section 8422 of this title upon separation from Government employment, shall be subject to legal process for the enforcement of the individual's legal obligations to provide child support or make alimony payments as provided in section 459 of the Social Security Act (42 U.S.C. 659) or to pay any indebtedness of the individual to the United States.

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“(e) The Board shall establish a program to make loans from the Thrift Savings Fund to a participant in case of financial hardship and shall prescribe regulations to carry out such program. Any such loan shall be made only out of sums contributed to the Thrift Savings Fund by the participant and net earnings attributable to such sums.

“(f) The sums in the Thrift Savings Fund shall not be appropriated and may not be used for any purpose other than the purposes specified in this section.

## “#427. Investment of Thrift Savings Fund

“(a) For the purposes of this section—

“(1) the term ‘Common Stock Index Investment Fund’ means the Common Stock Investment Fund established under subsection (b)(1)(C) of this section;

“(2) the term ‘equity capital’ means common and preferred stock, surplus, undivided profits, contingency reserves, and other capital reserves;

“(3) the term ‘Fixed Income Investment Fund’ means the Fixed Income Investment Fund established under subsection (b)(1)(B) of this section;

“(4) the term ‘Government Securities Investment Fund’ means the Government Securities Investment Fund established under subsection (b)(1)(A) of this section;

“(5) the term ‘net worth’ means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves;

“(6) the term ‘plan’ means an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3));

“(7) the term ‘qualified professional asset manager’ means—

“(A) a bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(2)) which—

“(i) has the power to manage, acquire, or dispose of assets of a plan; and

“(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital in excess of \$1,000,000;

“(B) a savings and loan association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, which—

“(i) has applied for and been granted trust powers to manage, acquire, or dispose of assets of a plan by a State or Government authority having supervision over savings and loan associations; and

“(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital or net worth in excess of \$1,000,000;

“(C) an insurance company which—

“(i) is qualified under the laws of more than one State to manage, acquire, or dispose of any assets of a plan;

“(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of \$1,000,000; and

“(iii) is subject to supervision and examination by a State authority having supervision over insurance companies; or

“(D) an investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) if the investment adviser has, on the last day of its latest fiscal year ending before the date of a determination for the purpose of this subparagraph, total client assets under its management and control in excess of \$50,000,000, and—

“(i) the investment adviser has, on such day, shareholder’s or partner’s equity in excess of \$750,000; or

“(ii) payment of all of the investment adviser’s liabilities, including any liabilities

which may arise by reason of a breach or violation of a duty described in section 8497 of this title, is unconditionally guaranteed by—

“(I) a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the investment adviser and who has, on the last day of the person’s latest fiscal year ending before the date of a determination for the purpose of this clause, shareholder’s or partner’s equity in an amount which, when added to the amount of the shareholder’s or partner’s equity of the investment adviser on such day, exceeds \$750,000;

“(II) a qualified professional asset manager described in subparagraph (A), (B), or (C) of this paragraph; or

“(III) a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) that has, on the last day of the broker’s or dealer’s latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of \$750,000; and

“(8) the term ‘shareholder’s or partner’s equity’, when used in paragraph (7)(D) of this subsection with respect to an investment adviser or a person who is affiliated with the investment adviser in a manner described in clause (ii)(I) of such paragraph (7)(D), means the equity shown in the most recent balance sheet prepared for such investment adviser or affiliated person, in accordance with generally accepted accounting principles, within 2 years before the date on which the investment adviser’s status as a qualified professional asset manager is determined for the purposes of this section.

“(b)(1) The Board shall establish—

“(A) a Government Securities Investment Fund under which sums in the Thrift Savings Fund are invested in securities of the United States Government issued as provided in subsection (g) of this section;

“(B) a Fixed Income Investment Fund under which sums in the Thrift Savings Fund are invested in insurance contracts, certificates of deposits, or other instruments or obligations which (i) are issued or selected by qualified professional asset managers, and (ii) return the amount invested and pay interest, at a specified rate or rates, on that amount during a specified period of time;

“(C) a Common Stock Index Investment Fund as provided in paragraph (2) of this subsection; and

“(D) such other investment funds as the Board determines to be appropriate for the purposes of this subchapter.

“(2)(A) The Board shall define an index which—

“(i) consists of all of the common stocks that are publicly listed and traded on one or more national securities exchanges, or

“(ii) is a commonly recognized index comprised of common stock the aggregate market value of which is at least 50 percent of the aggregate market value of all common stocks that are publicly listed and traded on one or more national securities exchanges.

“(B) The Common Stock Investment Fund shall be invested in each stock that is included in the index defined under subparagraph (A) of this paragraph such that, to the extent practicable, the percentage of the Common Stock Investment Fund that is invested in that stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stock included in such index.

“(C)(1) The Executive Director shall invest in the Government Securities Investment Fund the sums which are in the Thrift Sav-

ings Fund, are available for investment, and are not to be invested in an investment fund referred to in subsection (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this section pursuant to an election made under subsection (d) of this section.

“(2) Except as provided in subsection (e) of this section, the Executive Director shall invest sums available in the Thrift Savings Fund for investment as provided in elections made under subsection (d) of this section.

“(d)(1) Except as provided in subsection (e) of this section, at least once each year, a participant or former participant may elect the investment funds referred to in subsection (b) of this section into which the sums in the Thrift Savings Fund credited to the account of such participant or former participant are to be invested or reinvested.

“(2) The election may be made by a participant or former participant under paragraph (1) of this subsection only in accordance with regulations prescribed by the Board and within such period after the date the participant’s or former participant’s annual statement is transmitted to the participant or former participant pursuant to section 8428(b) of this title as the Board shall prescribe in such regulations.

“(e)(A) The Executive Director shall invest a percentage of the total amount that—

“(i) is contributed to the Thrift Savings Fund by a participant under section 8421(a) of this title during a year described under column I of the first table of minimum Government securities investments set out in subparagraph (B) of this paragraph, and

“(ii) is available for investment in the Government Securities Investment Fund as provided under column II of the table opposite the description of such year.

“(B) For the purposes of subparagraph (A) of this paragraph, the first table of minimum Government securities investments as follows:

## “Column I

Year:

Minimum percentage of the amounts contributed by a participant for each month of such year to be invested in the Government Securities Investment Fund:

1987.....	100
1988.....	80
1989.....	60
1990.....	40
1991.....	20.

“(2)(A) The Executive Director shall invest a percentage of the total amount that—

“(i) is contributed to the Thrift Savings Fund by the Government for the benefit of a participant pursuant to section 8421(b) of this title during a year described under column I of the second table of minimum Government securities investments set out in subparagraph (B) of this paragraph, and

“(ii) is available for investment in the Government Securities Investment Fund as provided under column II of the table opposite the description of such year.

“(B) For the purposes of subparagraph (A) of this paragraph, the second table of minimum Government securities investments is as follows:

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"Column I  
Year:

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**Column II**  
Minimum percentage of the amounts contributed for the benefit of a participant for each month of such year to be invested in the Government Securities Investment Fund:

1987-1992	100
1993	90
1994	60
1995	40
1996	20

"(3) All sums credited to the Thrift Savings Fund pursuant to section 8473(b) of this title shall be invested in the Government Securities Investment Fund.

"(4) The sums which are invested in the Government Securities Investment Fund as required by this subsection and are returned to the Thrift Savings Fund after maturity of the securities purchased with such sums, and the amounts earned on the investment of such sums, shall be reinvested in the Government Securities Investment Fund.

"(f) The Secretary of the Treasury shall issue notes under section 8163 of title 31 as appropriate to meet the investment needs of the Thrift Savings Fund under this section. The notes shall have a 2-year maturity, shall be redeemable at par, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of the issue, of all 2-year notes then forming a part of the public debt of the United States. If the average market yield is not a multiple of 1/8 of 1 percent, the rate of interest on the obligations shall be the multiple of 1/8 of 1 percent nearest the average market yield.

## "§ 8438. Accounting

"(a)(1) The Executive Director shall establish and maintain an account for each participant making contributions under section 8421(a) of this title.

"(2) The balance in the account of a participant or former participant at any time is the excess of—

"(A) the sum of—

"(i) all contributions made to the Thrift Savings Fund by the participant or former participant under section 8421(a) of this title;

"(ii) all contributions made to such fund for the benefit of the participant or former participant under section 8421(b) of this title;

"(iii) the amounts transferred to such fund with respect to the participant or former participant under section 8473(b) of this title; and

"(iv) the total amount of the allocations made to and reductions made in the account pursuant to paragraph (3) of this section, over

"(B) the amounts paid out of the Thrift Savings Fund with respect to such participant or former participant under this subchapter and subchapter IV of this title.

"(3) Pursuant to regulations prescribed by the Board, the Executive Director shall allocate to the account of each participant or former participant an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in the Thrift Savings Fund attributable to sums credited to the account of such participant, reduced by an appropriate share of the administrative expenses of the Civil Service Thrift In-

vestment Management System prescribed in subchapter VIII of this chapter, as determined by the Executive Director.

"(b) The Executive Director shall provide each participant and former participant an annual statement of the balance in the participant's or former participant's account.

"(c)(1) For the purposes of this subsection, the term 'qualified public accountant' shall have the same meaning as provided in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(a)(3)(D)).

"(2) The Executive Director shall annually engage, on behalf of all participants, an independent qualified public accountant, who shall conduct an examination of any accounts established under subsection (a) of this section and of other books and records maintained in the administration of this subchapter as the accountant considers necessary to enable the accountant to make the determination required by paragraph (3) of this subsection. The examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the accounts, books, and records as the independent qualified public accountant considers necessary.

"(3) The independent qualified public accountant conducting an examination under paragraph (2) of this subsection shall determine whether the accounts, books, and records referred to in such paragraph have been maintained in conformity with generally accepted accounting principles applied on a basis consistent with the application of such principles during the examination conducted under such paragraph during the preceding year. The accountant shall transmit to the Board a report on his examination, including his determination under this paragraph.

"(4) In making a determination under paragraph (3) of this subsection, the accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary, if the accountant states his reliance in the report transmitted to the Board under such paragraph.

## "SUBCHAPTER IV—SURVIVOR BENEFITS

## "§ 8431. Basic plan spouse benefits relating to the death of a participant or former participant other than an annuitant

"(a)(1) If a participant dies after performing 5 or more years of service and before separating from Government employment and the participant has satisfied the age and service requirements for retirement entitled to an immediate annuity under section 8411 of this title before the date of death, the surviving spouse of a deceased participant shall be entitled to a survivor annuity payable out of the Fund.

"(2) If a participant dies after performing 5 or more years of service and before separating from Government employment and the participant has not satisfied the age and service requirements for retirement entitled to an immediate annuity under section 8411 of this title before the date of death, the surviving spouse of a deceased participant shall be entitled to a survivor annuity payable out of the Fund. The survivor annuity shall commence on the first date the participant could have retired entitled to an immediate annuity under section 8411 of this title if the participant had continued to live and had continued to be a participant until such date.

"(3) The amount of the survivor annuity payable under paragraph (1) or (2) of this subsection to the surviving spouse of a deceased participant shall be equal to 50 percent of the annuity computed with respect to the deceased participant pursuant to sec-

tions 8413, 8414, and 8415 of this title as if the participant had retired from Government employment on the day before the date of death and had elected the method of payment described in section 8416(a)(3)(B) of this title.

"(b)(1) If a former participant dies entitled to a deferred annuity under section 8412 of this title before payment of an annuity under subchapter II of this chapter to the former participant commences, the surviving spouse of the deceased former participant is entitled to a survivor annuity payable out of the Fund.

"(2) The amount of the survivor annuity payable under paragraph (1) of this subsection to the surviving spouse of a deceased former participant shall be equal to 50 percent of the annuity which the deceased former participant would have been entitled to receive under such section if the deceased former participant—

"(A) had been 55 years of age on the day before the date of death, or

"(B) in the case of a former participant who was 55 years of age or older on such day and was not receiving such annuity, had commenced to receive such deferred annuity on such day.

computed under sections 8413, 8414, and 8415 of this title.

## "§ 8432. Basic plan spouse and insurable interest benefits relating to the death of an annuitant

"A survivor annuity shall be paid out of the Fund with respect to a deceased annuitant—

"(1) in accordance with the method of payment elected by the annuitant under section 8416 of this title;

"(2) as provided in subsection (b)(3) of such section; or

"(3) in accordance with an election made by the annuitant under section 8434(a) or 8436(c) of this title.

## "§ 8433. Survivor benefits under the Thrift Savings Plan

"(a) A survivor annuity shall be paid out of the Thrift Savings Fund with respect to a deceased annuitant as provided under a method of payment of annuities elected by the annuitant under section 8424(b) of this title or in accordance with an election made by the annuitant under section 8434(a) or 8436(c) of this title. The amount of the survivor annuity shall be determined on an actuarial basis under regulations prescribed by the Board.

"(b)(1) Except as provided in subsection (d) of this section, the amount in the account established and maintained for a deceased participant or deceased former participant (other than a deceased annuitant) pursuant to section 8428(a) of this title, determined on the date of an election under subsection (c) of this section, shall, subject to the limits of the entitlement set out in section 8422(a)(1) of this title (without regard to section 8422(a)(2) of this title), be paid as provided in paragraph (2) of this subsection.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, payment under paragraph (1) of this subsection shall be made to the surviving spouse of the deceased participant or former participant pursuant to the method elected under subsection (c) of this section.

"(B) If a deceased participant or former participant referred to in paragraph (1) of this subsection is not survived by a spouse, payment under such paragraph shall be made to—

"(i) any individual who has an insurable interest in the participant or former participant and has been designated by the participant for the purpose of such paragraph

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under regulations prescribed by the Board; or

"(ii) if the deceased participant or former participant did not make a designation as provided in clause (i) of this subparagraph, to the estate of the deceased participant or former participant.

"(c) A surviving spouse entitled to payment of benefits under subsection (b) of this section may elect—

"(1) to receive an annuity from the Fund payable monthly for life;

"(2) to transfer the amount referred to in such subsection to an individual retirement account (within the meaning of the Internal Revenue Code of 1954) of the surviving spouse; or

"(3) to withdraw such amount in one or more payments.

"(d) Any amount required for the payment of a survivor annuity with respect to a deceased participant or deceased former participant out of the Thrift Savings Fund pursuant to section 8435 of this title shall be deducted and withheld from a distribution made with respect to the deceased participant or deceased former participant pursuant to subsection (b) of this section. The amount deducted and withheld shall be maintained in the Thrift Savings Fund until expended in payment of the survivor annuity or until the survivor annuity terminates. Any sums remaining from the amount deducted and withheld after the termination of the survivor annuity, plus net earnings realized from investment of such amount, shall be distributed as provided in subsection (b) of this section.

\* 8434. *Bank and thrift savings plan survivor benefits relating to marriage after commencement of an annuity*

"(a) If an annuitant—

"(1) is married on the date that the annuitant applies for payment of an annuity under subchapter II of this chapter to commence, the marriage terminates, and the annuitant remarries, or

"(2) is not married on such date and marries after such date,

the annuitant may irrevocably elect during the later marriage to provide an annuity for such annuitant's spouse under the method of payment described in section 8416(a)(2)(B) or subparagraph (B) or (D) of section 8424(a)(2) of this title. An election under this subparagraph shall be made in a signed writing received by the Office within 2 years after the date of the remarriage or marriage, as the case may be.

"(b) An election under subsection (a) of this section shall be effective the first day of the second month beginning after the election is received by the Office (in the case of a survivor annuity payable out of the Fund) or the Executive Director (in the case of a survivor annuity payable out of the Thrift Savings Fund), but not earlier than 9 months after the date of the remarriage referred to in paragraph (1) of such subsection or the date of the marriage referred to in paragraph (2) of such subsection.

"(c) An annuitant making an election under subsection (a) of this section to provide a survivor annuity payable out of the Fund shall, within 2 years after the date of the remarriage referred to in paragraph (1) of such subsection or the date of the marriage referred to in paragraph (2) of such subsection, deposit in the Fund an amount determined by the Office, as nearly as may be administratively feasible, to reflect the amount by which the annuity of such annuitant would have been reduced if the election had been in effect since—

"(1) the date that payment of an annuity to the annuitant under subchapter II of this chapter commenced, or

"(2) if the annuity had previously been reduced to provide for a survivor annuity under section 8432 of this title, the date the previous reduction in such annuitant's annuity was terminated under section 8415(b) of this title.

plus interest computed as provided in section 8438(a) of this title.

"(d) Notwithstanding any other provision of this section, an election under this section may not be made for the purpose of providing a survivor annuity payable from the Fund to a spouse of an annuitant by remarriage if—

"(A) such spouse was married to the annuitant on the date that payment of an annuity to the annuitant under subchapter II of this chapter commenced; and

"(B) rights to survivor benefits for such spouse based on marriage to such annuitant were then waived under section 8416(b)(2) of this title.

\* 8435. *Survivor benefits for eligible former spouses: entitlement: amount*

"(a) Subject to subsections (b) through (g) of this section, an eligible former spouse of a deceased participant or deceased former participant who dies entitled to an immediate or deferred annuity under section 8411 or 8412 of this title is entitled to a survivor annuity under this section if and to the extent that—

"(1) an election under section 8436 of this title,

"(2) any court decree dissolving or annuling the marriage of the participant or former participant and the eligible former spouse, or

"(3) any court order or court-approved property settlement agreement incident to such decree,

expressly provides for such survivor annuity.

"(b)(1) The amount of the survivor annuity payable from the Fund to an eligible former spouse of a deceased participant or deceased former participant under this section may not exceed the excess, if any, of—

"(A) the amount applicable in the case of such eligible former spouse, as determined under paragraph (2) of this subsection, over

"(B) the amount of all other survivor annuities payable from the Fund under this section to other eligible former spouses of the participant or former participant based on the order of precedence provided in subsection (d) of this section.

"(2) For the purposes of paragraph (1)(A) of this subsection, the amount applicable in the case of an eligible former spouse of a deceased participant or deceased former participant is the amount—

"(A) which is equal to 50 percent of the amount of the deceased former participant's annuity payable to the former participant on the day before the date of the former participant's death, if the deceased former participant was an annuitant on such day;

"(B) which would be applicable under paragraph (3) of section 8431(a) of this title in the case of a surviving spouse of the deceased, if the deceased was a participant described in paragraph (1) or (2) of such section 8431(a); or

"(C) which would be applicable under paragraph (2) of section 8431(b) of this title in the case of a surviving spouse of the deceased, if the deceased was a former participant described in paragraph (1) of such section 8431(b).

"(c) The total amount of all survivor annuities payable from the Thrift Savings Fund to eligible former spouses of a deceased participant or deceased former participant pursuant to this section may not exceed the amount of the survivor annuities that would be payable to the former spouses

out of 100 percent of the balance in the account of the deceased participant or deceased former participant, plus anticipated net earnings from investments allocable to such account, determined on an actuarial basis in accordance with regulations prescribed by the Board.

"(d) If more than one eligible former spouse is entitled to a survivor annuity pursuant to this section, the amount of each such survivor annuity shall be limited appropriately to carry out subsection (b) or (c) of this section on a first-come, first-served basis determined by reference to the date an election is properly made pursuant to section 8436 of this title or the date the Director or Executive Director, as the case may be, properly receives a copy of the court decree, order, or court-approved agreement applicable to the entitlement.

"(e) The commencement and termination dates of a survivor annuity payable under this section to an eligible former spouse of a deceased participant or deceased former participant shall be the commencement and termination dates determined under the provisions of the applicable court order, decree, or agreement or an election, as the case may be (if provided in such order, decree, agreement, or election), except that any such survivor annuity—

"(1) shall not commence before—

"(A) the day after the participant or former participant dies, or

"(B) the first day of the second month beginning after the date on which the Office receives written notice of the court order, decree, or agreement or the election, as the case may be, together with such additional information or documentation as the Office may prescribe,

whichever is later, and

"(2) shall terminate not later than the date provided in section 8464(b)(2) of this title.

"(f) For the purposes of this section, a court decree, order, or agreement or an election referred to in subsection (a) of this section shall not be effective, in the case of a survivor annuity payable out of the Fund to a former spouse, to the extent that the election is inconsistent with any joint waiver previously executed with respect to such former spouse under section 8416(b)(2) of this title.

"(g) Any payment under this section to a person bars recovery by any other person.

\* 8436. *Survivor benefits for former spouses: election, deposits and collections, and administrative provisions*

"(a)(1) If an annuitant has an eligible former spouse on the date that the annuitant applies for payment of an annuity to the annuitant under subchapter II of this chapter to commence, the annuitant may elect, under procedures prescribed by the Office, to provide a survivor annuity for such former spouse under section 8435 of this title. An election under this paragraph shall be made on such date or, if later, within 2 years after the date on which the marriage of the former spouse to the annuitant was dissolved or annulled. The election shall specify the amount of the survivor annuity to be provided under this paragraph.

"(2) If an annuitant makes an election under paragraph (1) of this subsection to provide a survivor annuity payable out of the Fund and the annuitant makes the election during the 2-year period referred to in such paragraph, the annuitant shall deposit in the Fund, within such period, an amount determined by the Office, as nearly as may be administratively feasible, to reflect the amount by which the annuity of such an annuitant would have been reduced if the election had been continuously in effect since

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the date the annuity commenced, plus interest computed as provided in section 8438(a) of this title.

"(3) An election under paragraph (1) of this subsection—

"(A) shall not be effective to the extent that it conflicts with—

"(i) any court decree or order referred to in subsection (a) of section 8435 of this title, or

"(ii) any agreement referred to in such subsection, which is received by the Office before the date on which such election is made;

"(B) shall not be effective to the extent that the amount of the annuity specified in the election exceeds—

"(i) in the case of a survivor annuity payable from the Fund, the amount determined pursuant to subsections (b)(2) and (d) of section 8435 of this title; or

"(ii) in the case of a survivor annuity payable from the Thrift Savings Fund, the amount determined pursuant to subsections (c) and (d) of section 8435 of this title; and

"(C) shall not be effective, in the case of an annuitant who is married on the date of the election, unless the election is made with the written consent of the annuitant's spouse.

"(b) An annuitant who has elected to provide a survivor annuity for an eligible former spouse pursuant to subsection (a) of this section may make an election to provide or increase a survivor annuity for any other eligible former spouse of the annuitant within the same period that, and subject to the same conditions under which, an election could be made under subsection (c) of this section for a spouse of the annuitant (subject to the provisions of subsection (a)(3)(C) of this section relating to the consent of a spouse, if the annuitant is then married). The opportunity to make an election under the preceding sentence is in addition to any opportunity otherwise provided under this subsection.

"(c) If the entitlement of an eligible former spouse of an annuitant to a survivor annuity under this subchapter is terminated or reduced by reason of the remarriage or death of the former spouse, the annuitant may elect, in a signed writing received by the Office (in the case of a survivor annuity to be paid out of the Fund) or the Executive Director (in the case of a survivor annuity to be paid out of the Thrift Savings Fund) within 2 years after the former spouse's date of death or remarriage, as the case may be, to provide a survivor annuity under the method described in section 8414(a)(2)(B) of this title (in the case of a terminated or reduced entitlement payable out of the Fund) or in subparagraph (B) or (D) of section 8424(a)(2) of this title (in the case of a terminated or reduced entitlement payable from the Thrift Savings Fund).

"(d) The requirement that the spouse of an annuitant waive a right to a survivor annuity under this subchapter as a condition for an election authorized by subsection (a)(3)(C) of this section shall not apply if the participant or annuitant establishes to the satisfaction of the Office that—

"(1) the spouse's whereabouts cannot reasonably be determined; or

"(2) due to exceptional circumstances, it would be inappropriate to require the participant or annuitant to obtain the spouse's consent.

## "§ 8437. Termination of entitlement

"(a) An election of an annuitant to provide a survivor annuity to the annuitant's spouse under this subchapter terminates on the first day of the first month beginning after—

"(1) the date of the death of the spouse; or

"(2) the date of the dissolution of the spouse's marriage to the annuitant.

"(b) The entitlement of an eligible former spouse of a former participant to a survivor annuity under section 8435(a) of this title terminates on the first day of the first month beginning after—

"(1) the date of the death of the former spouse; or

"(2) the date the former spouse remarries before becoming 55 years of age.

## "§ 8438. Deposits to the Fund

"(a) For the purposes of section 8434(c) or 8436(a)(2) of this title, the annual rate of interest for each year during which an annuity would have been reduced if the election referred to in such section had been in effect on and after the applicable date referred to in such section shall be the percent determined for such year under section 8334(e) of this title.

"(b) If an annuitant does not make a deposit required by section 8434(c) or 8436(a)(2) of this title, the Office shall collect such amount by offset against the annuitant's annuity payable from the Fund, up to a maximum of 25 percent of the net annuity otherwise payable to the annuitant. The annuitant is deemed to consent to such offset.

"(c) The Office may extend the time limit for making a deposit required by section 8434(c) or 8436(a)(2) of this title in any case for good cause shown.

## "SUBCHAPTER V—DISABILITY BENEFITS

## "§ 8441. Definitions

"For the purposes of this subchapter—

"(1) the term 'administrator of benefits' means an insurance company or other entity which—

"(A) offers claims payment services and related administrative services under benefit plans provided by employers in the private sector; and

"(B) has entered into a contract with the Office pursuant to section 8459 of this title;

"(2) the term 'disability benefits under the Social Security Act' means disability insurance benefits payable under section 223 of the Social Security Act or benefits payable under section 202 of such Act by reason of being under a disability;

"(3) the term 'disability date', when used with respect to an eligible participant, means the date the eligible participant became disabled;

"(4) the term 'disabled', when used with respect to an eligible participant, means that the eligible participant—

"(A) is under a disability within the meaning of section 223 of the Social Security Act; or

"(B) is unable, because of disease or injury, to render useful and efficient service in the participant's position and is not qualified for reassignment, under procedures prescribed by the Office, to a vacant position—

"(i) which is in the participant's employing agency and is in the participant's commuting area;

"(ii) which is at the same grade or pay level as the participant's position; and

"(iii) in which the participant would be able to render useful and efficient service;

"(5) the term 'eligible participant' means an employee or Member whose service exceeds 18 months and—

"(A) who—

"(i) has applied for disability benefits under the Social Security Act and has been determined to be under a disability for the purposes of title II of the Social Security Act; or

"(ii) in the case of an employee or Member who is not entitled to disability benefits under the Social Security Act by

reason of insufficient quarters of coverage, has been determined by an administrator of benefits to be disabled within the meaning of paragraph (4)(A) of this section on the basis of a report of examination required by section 8445 of this title; or

"(B) who has been determined by an administrator of benefits to be disabled within the meaning of paragraph (4)(B) of this section on the basis of a report of examination required by section 8445 of this title;

"(6) the term 'onset average pay', when used with respect to a disabled eligible participant, means the participant's average pay on the participant's disability date increased on January 1 of each year after such date by the same percent by which annuities referred to in paragraph (1) of section 8462(b) of this title are increased under such section 8462(b) in December of the preceding year, and compounded; and

"(7) the term 'projected service', when used with respect to a disabled eligible participant, means the sum of the number of years of service performed by the participant before the participant's disability date and the number of years, if any, after such date and before the date the participant becomes—

"(A) in the case of an eligible participant referred to in subparagraph (5)(A) of this section, 62 years of age; or

"(B) in the case of an eligible participant referred to in subparagraph (5)(B) of this section, 55 years of age.

## "§ 8442. Entitlement

"(A)(1) A person who is an eligible participant, is disabled, and has used all sick leave accrued and accumulated under subchapter I of chapter 63 of this title or any other similar applicable provision of law relating to Government employment is entitled to receive disability benefits under this subchapter while—

"(A) in the case of a person who is disabled within the meaning of section 8441(4)(A) of this title, such person is under 62 years of age; and

"(B) in the case of a person who is disabled within the meaning of section 8441(4)(B) of this title, such person is under 55 years of age.

"(2) When a person referred to in paragraph (1) of this subsection exceeds the maximum age at which the person is qualified for benefits under such paragraph, the person shall be treated as an eligible participant for the purposes of entitlement to benefits under subsection (b) of this section.

"(B)(1) An eligible participant who—

"(A) is disabled within the meaning of section 8441(4)(A) of this title and is not less than 62 years of age, or

"(B) is disabled within the meaning of section 8441(4)(B) of this title and is not less than 55 years of age,

and who has 5 or more years of service and projected service shall be entitled to an annuity as provided in subchapter II of this title.

"(2) For the purposes of applying the provisions of subchapter II of this title in the case of an eligible participant pursuant to paragraph (1) of this subsection—

"(A) the eligible participant shall be deemed to have separated from Government employment on the day before the date the participant becomes entitled to an annuity pursuant to paragraph (1) of this subsection;

"(B) the service of the participant shall include the participant's projected service; and

"(C) the participant's average pay shall be equal to the participant's onset average pay.

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## "§ 8412. Computation of benefits

"(a) The annual rate of the disability benefits payable under section 8442(a) of this title to an eligible participant referred to in section 8441(5)(A) of this title shall be equal to the excess of 60 percent of the participant's onset average pay over the amount, if any, payable to the participant as disability benefits under the Social Security Act.

"(b) The annual rate of the disability benefits payable under section 8442(a) of this title to an eligible participant referred to in section 8441(5)(B) of this title—

"(1) during the period ending 1 year after the eligible participant's disability date, shall be equal to the excess of 60 percent of the participant's onset average pay over the amount, if any, payable to the participant as disability benefits under the Social Security Act; and

"(2) after such period, while the participant is under 55 years of age, shall be equal to the excess of 40 percent of the participant's onset average pay over the amount, if any, payable to the participant as disability benefits under the Social Security Act.

## "§ 8444. Application

"(a) Except as provided in subsection (b) of this section, a claim of a participant for disability benefits under this subchapter may be allowed only if the participant files with the appropriate administrator of benefits an application for the disability benefits before the date the participant separates from Government employment or within 1 year after such date.

"(b) An appropriate administrator of benefits may waive the time limitation set out in subsection (a) of this section in the case of a participant if—

"(1) the administrator of benefits determines that the participant was mentally incompetent on the date the participant separated from Government employment or within 1 year after such date; and

"(2) the application for disability benefits is filed within 1 year after the date the participant is restored to mental competency or the date a fiduciary is appointed to manage the financial affairs of the participant, whichever date is earlier.

## "§ 8451. Medical examinations

"(a) A participant applying for or receiving disability benefits under section 8442(a) of this title shall be examined by a physician under the direction of the appropriate administrator of benefits at such times as such administrator may require.

"(b) A physician examining a participant under subsection (a) of this section shall report to the appropriate administrator of benefits the diagnosis and prognosis with respect to such participant.

"(c) Notwithstanding any other provision of this subchapter, any participant who fails to submit to the examination required under subsection (a) of this section shall not be entitled to disability benefits.

## "§ 8466. Offers of alternative employment

"(a)(1) Any participant who is applying for disability benefits under this subchapter, is examined pursuant to section 8445 of this title, and is determined on the basis of the examination to be able to perform the work required in any position described in paragraph (2) of this subsection shall be considered for appointment to such position.

"(2) A position referred to in paragraph (1) of this subsection is a position which is in the agency of the Government employing the participant referred to in such paragraph, is a position for which the participant is qualified, is not lower than the grade or pay level of the participant's position, and is within the participant's commuting area.

"(b) Any participant who is appointed to or offered a position under subsection (a) of this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title any determination that the participant is able to perform the work required of such position.

## "§ 8417. Recovery or restoration of earning capacity

"(a)(1) If an administrator of benefits determines that an individual who is receiving disability benefits under this subchapter has recovered from the disability before becoming 62 years of age (in the case of an individual who is disabled within the meaning of section 8441(4)(A) of this title) or 55 years of age (in the case of an individual who is disabled within the meaning of section 8441(4)(B) of this title), payment of the benefits shall terminate on the date the individual is reemployed by the Government or 1 year after the date of the medical examination on which such administrator's determination is based, whichever date is earlier.

"(2)(A) Payment of disability benefits to any individual under this chapter that has been terminated pursuant to paragraph (1) of this subsection shall be resumed if there is a recurrence of the individual's disability, as determined by an administrator of benefits after a medical examination of the individual, and the individual is under 62 years of age (in the case of an individual who is disabled within the meaning of section 8441(4)(A) of this title) or under 55 years of age (in the case of an individual who is disabled within the meaning of section 8441(4)(B) of this title).

"(B) A resumption of payment of disability benefits under subparagraph (A) of this paragraph shall be effective on the date the medical examination referred to in such paragraph was completed.

"(C) The annual rate of the disability benefits payable to an individual upon resumption of payment under subparagraph (A) of this paragraph shall be the annual rate that would have been payable to the individual if payment of disability benefits had not been terminated pursuant to paragraph (1) of this subsection.

"(b)(1) If the administrator of benefits determines that an individual who is receiving disability benefits under this subchapter has received, during the latest calendar year, income from wages or self-employment or both totalling the amount equal to 60 percent of the rate of pay payable for the individual's position of Government employment on the individual's disability date determined for the purposes of this subchapter (increased as if such rate of pay had been increased, by the same percent as the overall percent increase in the rates of pay under the General Schedule, each time such rates had been increased pursuant to section 5305 of this title since such date), payment of the benefits shall terminate on the date 60 days after the end of such calendar year.

"(2)(A) If payment of disability benefits under this subchapter has been terminated pursuant to paragraph (1) of this subsection in the case of an individual who is not reemployed in a position subject to this chapter, who continues to be disabled, who is under 62 years of age (in the case of an individual who is disabled within the meaning of section 8441(4)(A) of this title) or under 55 years of age (in the case of an individual who is disabled within the meaning of section 8441(4)(B) of this title), and who receives in the calendar year in which the disability benefits were terminated, or any calendar year after such year, income from wages or self-employment or both totalling less than the amount computed in such case as provided in such paragraph, payment of

disability benefits to the individual under this subchapter shall be resumed.

"(B) A resumption of payment of disability benefits to an individual under subparagraph (A) of this paragraph shall be effective the first day of the first year beginning after the year in which the individual received the income referred to in such subparagraph.

"(C) The annual rate of the disability benefits payable to an individual upon resumption of payment of disability benefits under subparagraph (A) of this paragraph shall be the annual rate that would have been payable to the individual if payment had not been terminated pursuant to paragraph (1) of this subsection.

"(C) Any determination under this section may be appealed to the Office. A determination of the Office in such an appeal may be appealed to the Merit Systems Protection Board under section 7701 of this title. The Merit Systems Protection Board may hear and adjudicate any such appeal.

## "§ 8448. Relationship to workers' compensation

"(a)(1) An individual is not entitled to receive disability benefits under this subchapter and compensation for injury to or disability of the individual under subchapter I of chapter 81 of this title covering the same period of time.

"(2) Paragraph (1) of this subsection does not bar the right of a claimant to the greater benefit conferred by either subchapter referred to in such paragraph for any part of the period referred to in such paragraph.

"(3) Paragraph (1) of this subsection and the provisions of subchapter I of chapter 81 of this title do not deny an individual an annuity which the individual is entitled to receive under this chapter on account of service performed by the individual and do not deny any concurrent benefit to the individual under subchapter I of chapter 81 of this title on account of the death of another individual.

"(b)(1) Subject to paragraph (2) of this subsection, an individual's receipt of a lump-sum payment for compensation under section 8135 of this title shall not affect the individual's entitlement to disability benefits under this subchapter.

"(2) If disability benefits are payable under this subchapter by reason of the same disability for which a lump-sum payment of compensation referred to in paragraph (1) of this subsection has been made, so much of the compensation as has been paid for a period extended beyond the date payment of the disability benefits commences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the disability benefits, the individual shall—

"(A) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

"(B) authorize the deduction of the amount from the disability benefits.

Deductions from the disability benefits may be made from accrued or accruing payments. The amounts deducted and withheld from disability benefits shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to disability benefits under this subchapter warrant deferred refunding under this paragraph, deductions from the disability benefits may be prorated against and paid from accruing payments in such

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manner as the Department determines appropriate.

## "8 8448. Military reserve technicians

"(a)(1) Except as provided in paragraph (2) of this subsection, a participant shall be entitled to disability benefits under this subchapter in the same manner as an eligible participant described in section 8441(5)(B) of this title if the participant—

"(A) is separated from employment as a military reserve technician by reason of a disability that disqualifies the individual from membership in a reserve component of the Armed Forces specified in section 261(a) of title 10 or from holding the military grade required for such employment;

"(B) is not considered disabled;

"(C) is not appointed to another position in the Government (under subsection (b) of this section or otherwise); and

"(D) has not declined an offer of appointment to a position in the Government under subsection (b) of this section.

"(2) Payment of disability benefits to an individual under this section terminates—

"(A) on the date the individual is appointed to a position in the Government (under subsection (b) of this section or otherwise);

"(B) on the date the individual declines an offer of appointment to a position in the Government pursuant to subsection (b) of this section; or

"(C) as provided in section 8447(a) or 8447(b) of this title.

"(b) Any individual applying for or receiving disability benefits pursuant to this section shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled, if—

"(1) the position is located within the commuting area of the individual's former position;

"(2) the individual is qualified to serve in the vacant position; and

"(3) the position is at the same grade or equivalent level as the position from which the individual was separated.

## "8 8450. Administrative provisions

"(a) For the purpose of this section, the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

"(b) The Office shall enter into a contract with one or more insurance companies or other entities described in section 8441(1)(A) of this title to provide long-term group disability insurance benefits under this subchapter and to administer the provisions of this subchapter which the Office is not specifically required by this chapter to administer. Each such company or other entity shall meet the following requirements:

"(1) It must be licensed to transact insurance under the laws of a State.

"(2) It must have in effect, on the most recent December 31 for which information is available to the Office, an amount of employee group disability insurance equal to at least 1 percent of the total amount of employee group disability insurance in the United States in all insurance companies.

"(c) A contractor under a contract awarded under subsection (b) of this section shall establish an administrative office under a name approved by the Office.

"(d) Each contract awarded by the Office under subsection (b) of this section may remain in effect for a period not exceeding 5 years and may include a provision authorizing extension of the contract, with the consent of the contractor, for successive periods of 1 year each.

"(e) The Director may include in contracts awarded under subsection (b) of this section

such terms and conditions as he considers appropriate to protect the interests of participants and the United States.

"(f) All records established or maintained by an administrator of benefits in the administration of this subchapter shall be the property of the United States. The administrator of benefits shall deliver such records to the Office whenever requested by the Office.

"(g) The provisions of any contract under this subchapter which relate to the nature or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any law of any State or political subdivision thereof, or any regulation issued thereunder, which relates to group disability insurance to the extent that the law or regulation is inconsistent with the contractual provisions.

"(h) The Secretary of Health and Human Services shall furnish to the Office and an administrator of benefits such information, including information on individuals claiming entitlement to benefits under this subchapter, as the Office determines to be necessary to carry out this subchapter.

## "8 8451. Annual accounting; special contingency reserve

"A contract awarded under section 8450 of this title shall include a provision requiring the administrator of benefits under the contract to transmit an accounting to the Office not later than 90 days after the end of each policy year. The accounting shall set forth, in a form approved by the Office—

"(1) the total of all claim charges incurred for the contract year; and

"(2) the amounts of the expenses of the administrator of benefits charged for the contract year.

## "8 8452. Federal Employees' Disability Insurance Fund

"(a) There is established in the Treasury of the United States a fund to be known as the 'Federal Employees' Disability Insurance Fund'.

"(b)(1) Each agency of the Government employing participants shall make periodic payments to the Federal Employees' Disability Insurance Fund in the amount of the portion of the premium payable for the applicable period (as determined by the Office) which is attributable to such participants, as determined by the Office and the appropriate administrator of benefits.

"(2) An employing agency shall pay the amounts required by paragraph (1) of this subsection from the appropriation or fund available for payment of the basic pay or salaries of employees of the agency. In the case of a participant in the legislative branch who is paid by the Clerk of the House of Representatives, the amount shall be paid from the contingent fund of the House of Representatives.

"(c) Sums in the Federal Employees' Disability Insurance Fund shall be available without fiscal year limitation for the payment of premiums for long-term group disability insurance under this subchapter.

"(d) The Secretary of the Treasury may invest and reinvest any of the money in the Federal Employees' Disability Insurance Fund in interest-bearing obligations of the United States and may sell such obligations for the purposes of such fund. The interest on and the proceeds from the sale of these obligations, and the income derived from premium rate adjustments, become a part of such fund.

"(e)(1) No tax, fee, or other monetary payment may be imposed or collected by any State or by any political subdivision or other governmental authority thereof on or with respect to any premium paid for long-term group disability insurance under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any administra-

tor of benefits from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by the administrator from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.

## "SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

## "8 8461. Authority of the Office of Personnel Management

"(a) The Office shall pay all benefits that are payable under subchapter II of this chapter from the Fund.

"(b) The Office shall administer all provisions of this chapter not specifically required to be administered by the Board, the Executive Director, or any other agency.

"(c) The Office may make regulations to carry out the provisions of this chapter administered by the Office.

"(d) The Office may contract for the performance of any administrative services necessary to carry out its responsibilities under this chapter.

## "8 8462. Cost-of-living adjustment in basic plan annuities and survivor annuities

"(a) For the purpose of this section—

"(1) the term 'base quarter', when used with respect to a year, means the calendar quarter ending on September 30, of such year; and

"(2) the price index for a base quarter is the arithmetic mean of such index for the 3 months comprising such quarter.

"(b)(1) Except as provided in subsection (c) of this section, effective December 1 of each year in which the price index for the base quarter of such year exceeds the price index for the base quarter of the preceding year, each annuity which is payable from the Fund under subchapter II or IV of this chapter and commences not later than such December 1 shall be increased by the percentage computed under paragraph (2) of this subsection.

"(2) The percentage by which an annuity is increased under paragraph (1) of this subsection in any year shall be the excess, if any, of—

"(A) the percentage of the increase in the price index for the base quarter of such year over the price index of the preceding year, over

"(B) 2 percent.

"(c)(1) The first increase (if any) made under subsection (b) of this section to an annuity payable to a participant who retires, to the surviving spouse or surviving former spouse of a deceased participant, or to the surviving spouse or surviving former spouse of a deceased annuitant whose annuity has never been increased under this subsection or subsection (b) of this section shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

"(A) one-twelfth of the applicable percentage of the adjustment computed under subsection (b) of this section, multiplied by

"(B)(1) the number of months (counting any portion of a month as a month) for which the annuity was payable before the effective date of the increase, or

"(ii) in the case of a survivor annuity payable to a surviving spouse or surviving former spouse of a deceased annuitant whose annuity has never been so increased, the number of months (counting any portion of a month as a month) since the annuity was first payable to the deceased annuitant.

"(2) Effective on its commencing date, an annuity referred to in subsection (b) of this section and payable to an annuitant's surviving spouse or surviving former spouse shall be increased by the total percentage

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by which the deceased annuitant's annuity had been increased under this section during the period beginning on the date the deceased annuitant's annuity commenced and ending on the date of the deceased annuitant's death.

"(d) The monthly installment of an annuity payable after adjustment under this section shall be rounded to the next lowest dollar, but the increase in the monthly installment under this section shall be at least \$1.

## "§ 8463. Rate of benefits

"Each annuity and disability benefit is stated as an annual amount, one-twelfth of which, fixed at the next lowest dollar, constitutes the monthly rate payable on the first business day of the first month beginning after the last day of the month for which the annuity or disability benefit has accrued.

## "§ 8464. Commencement and termination of annuities

"(a)(1) Except as otherwise provided in this chapter, the annuity of a participant under subchapter II of this chapter shall commence on the first day of the first month beginning after—

"(A) the date the participant separates from Government employment entitled to an immediate annuity under section 8411 of this title, or

"(B) in the case of a participant who is entitled to a deferred annuity under section 8412 of this title and is not entitled to an immediate annuity under section 8411 of this title, the date elected by the participant under section 8412(a) of this title or the date the participant becomes 62 years of age, whichever is earlier.

as the case may be.

"(2) The annuity of an annuitant under this chapter terminates on the date of death or other terminating event provided by law.

"(b)(1) Except as otherwise provided in this chapter, a survivor annuity payable to an individual under this chapter shall commence on the first day of the first month beginning after the date of the death of the deceased participant or former participant on whose death such annuity is based.

"(2) A survivor annuity payable to a surviving spouse or an eligible former spouse of a deceased participant or deceased former participant under this chapter terminates on the last day of the last month ending before the surviving spouse or former spouse dies or, if the surviving spouse or former spouse is less than 55 years of age, remarries.

## "§ 8465. Waiver, allotment, and assignment of benefits

"(a) An individual entitled to receive payment of benefits under subchapter II of this chapter may decline to accept all or any part of the amount of the benefits by a waiver signed and filed with the Office. The waiver may be revoked in writing at any time. Payment of the benefits waived may not be made for the period during which the waiver is in effect.

"(b) An individual entitled to receive payment of benefits under subchapter II of this chapter may make allotments or assignments of amounts from the benefits for such purposes as the Office considers appropriate.

## "§ 8466. Application for benefits

"(a) No payment of benefits based on the service of a former participant shall be made under this chapter unless an application for payment of the benefits is received by the Office before the one hundred and fifteenth anniversary of the former participant's birth.

"(b) Notwithstanding subsection (a) of this section, after the death of a participant or former participant, a benefit based on

the participant's or former participant's service shall not be paid under subchapter IV of this chapter unless an application therefor is received by the Office within 30 years after the death or other event which establishes the entitlement to the benefit.

## "§ 8467. Court orders

"(a) Payments under this chapter which would otherwise be made to a participant or former participant based upon the service of the participant or former participant shall be paid (in whole or in part) by the Office or the Executive Director, as the case may be, to another person if and to the extent that the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation expressly provide. Any payment under this paragraph to a person bars recovery by any other person.

"(b) Subsection (a) of this section shall apply only to payments made by the Office or the Executive Director under this chapter after the date on which the Office or the Executive Director, as the case may be, receives written notice of such decree, order, or agreement, and such additional information and documentation as the Office or the Executive Director may require.

## "§ 8468. Annuities and pay on reemployment

"(a) If an annuitant becomes employed in an appointive or elective position in the Government, payment of any annuity under subchapter II of this chapter to the annuitant terminates effective on the date of the employment, and the annuitant's service on and after the date the annuitant becomes so employed is covered by this chapter. Upon termination of the employment, the rights of the annuitant under subchapter II of this chapter shall be redetermined. If the annuitant dies while still so employed, a survivor annuity payable with respect to the deceased annuitant shall be redetermined as if the employment had otherwise terminated on the date of death.

"(b) The amount of an annuity resulting from a redetermination of rights under this chapter pursuant to subsection (a) of this section shall not be less than the amount of the terminated annuity plus any increases under section 8462 of this title occurring after the termination of the annuity and before the commencement of the redetermined annuity.

## "SUBCHAPTER VII—TRANSITION PROVISIONS

## "§ 8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System

"(a)(1)(A) Any individual who is subject to subchapter III of chapter 83 of this title as an employee (as defined in section 8331(1) of this title, other than an individual employed by the government of the District of Columbia) or a Member (as defined in section 8331(2) of this title), whose service is not employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and who is not required by section 8402 of this title to be a participant may elect to commence participation in the System.

"(B) An election made under subparagraph (A) of this paragraph shall be made in writing, in accordance with such regulations as the Office may prescribe, and not later than December 31, 1987, or, in the case of an individual who becomes an employee or Member after a break in service for a period that includes January 1, 1987, not later than 1 year after the date on which the individual resumes service.

"(2) Except as provided in section 8472(d) of this title, any individual who makes the election authorized by paragraph (1) of this

subsection shall retain accrued credit for entitlement to benefits under subchapter III of chapter 83 of title 5, United States Code, for service performed while subject to such subchapter.

"(3) An individual referred to in paragraph (1) of this subsection who becomes an employee or Member after a break in service for a period that includes January 1, 1987, may make deposits under section 8334 of this title for service performed before such date while subject to subchapter III of chapter 83 of this title.

"(b) Except as provided in section 8472(d) of this title, any individual who—

"(1) has an unfunded lump-sum credit in the Fund under subchapter III of chapter 83 of this title.

"(2) is required by section 8402 of this title to be a participant, and

"(3) is not a participant referred to in section 8473(a) of this title,

shall retain accrued credit for entitlement to benefits under such subchapter for service performed while subject to such subchapter.

"(c) Except as provided in section 8472(d) of this title, any individual who—

"(1) has received a refund of a lump-sum credit in the Fund under subchapter III of chapter 83 of this title.

"(2) is required by section 8402 of this title to be a participant, and

"(3) is not a participant referred to in section 8473(a) of this title,

may make deposits under section 8334 of this title for service performed before January 1, 1987, while subject to subchapter III of chapter 83 of this title and shall, upon making such deposits, be entitled to credit under such subchapter for service covered by the deposits.

"(d) Survivor benefits shall be payable as provided in subchapter III of chapter 83 of this title and this chapter to the extent of the service creditable under such subchapter (pursuant to this section) and this chapter in the case of a participant referred to in subsection (a), (b), or (c) of this section.

## "§ 8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System

"(a) Service that is creditable under subchapter III of chapter 83 of this title in the case of an individual who retains entitlement in the Civil Service Retirement and Disability System under section 8471 of this title shall be credited as service under this chapter only—

"(1) for the purposes of determining eligibility to retire entitled to an annuity under section 8411 or 8412 of this title and entitlement for disability benefits under subchapter V of this chapter; and

"(2) for the purpose of considering such service as years of participation in the System for the purposes of section 8422 of this title (relating to vesting under the thrift savings plan).

"(b) Service performed as a participant in the System by an individual referred to in subsection (a) of this section shall be credited under subchapter III of chapter 83 of this title only for the purpose of determining eligibility to retire entitled to an annuity under section 8335, 8336, or 8338 of this title.

"(c)(1) The rates of basic pay in effect for an individual referred to in subsection (a) of this section on and after the date the individual begins to participate in the System shall be taken into account in computing the individual's average pay (as defined in section 8331(4) of this title) for the purposes of subchapter III of chapter 83 of this title.

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"(2) The rates of basic pay in effect for an individual referred to in subsection (a) of this section before the date the individual begins to participate in the System shall be taken into account in computing the individual's average pay for the purposes of this chapter.

"(d) Section 8337 of this title (relating to disability retirement) shall not apply in the case of a participant referred to in subsection (a).

"§ 8473. Participants subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983

"(a)(1) The service of a participant with respect to which a reduced contribution is made under section 204(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note) shall be credited as service for the purposes of this chapter and shall be considered years of participation in the System for the purposes of section 8422(b)(1) of this title.

"(2) Paragraph (1) of this subsection shall not apply to an individual who serves continuously as a Member of Congress during the period beginning December 31, 1983, and ending January 1, 1987.

"(b)(1) On January 1, 1987, the amount computed under paragraph (2) of this subsection shall be transferred from the Fund to the Thrift Savings Fund in the case of a participant to whom subsection (a)(1) of this section applies. The amount transferred shall be credited to an account established for the individual pursuant to section 8428(a) of this title.

"(2)(A) The amount transferred from the Fund in the case of a participant pursuant to paragraph (1) of this subsection shall be equal to the sum of—

"(i) two times the total amount deducted and withheld from the basic pay of the participant pursuant to section 204(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note); and

"(ii) interest on the amount referred to in clause (i) of this subparagraph computed at the annual rate determined under the second sentence of this subparagraph and compounded annually, as if a fraction of such amount (determined as provided in subparagraph (B) of this paragraph) had been deposited to the credit of the Fund at the end of each month for which amounts were deducted and withheld from the basic pay of the participant as described in clause (i) of this subparagraph.

The annual rate referred to in clause (ii) for an amount transferred from the Fund in any calendar year shall be equal to the interest rate determined for such calendar year under section 8334(e) of this title.

"(B) In the case of any participant to whom paragraph (1) of this subsection applies—

"(i) the numerator of the fraction referred to in subparagraph (A)(ii) of this paragraph is one; and

"(ii) the denominator of the fraction is the number of months for which amounts were deducted and withheld from the basic pay of the participant as described in subparagraph (A)(i) of this paragraph.

"(3) For the purposes of section 8422 of this title—

"(A) one-half of the amount computed in the case of a participant referred to in subsection (a) of this section pursuant to paragraph (2) of this subsection shall be treated as a contribution made under section 8421(a) of this title; and

"(B) one-half of such amount shall be treated as a contribution made by the employing agency of the participant pursuant to section 8421(b) of this title.

"(4) All amounts transferred from the Fund pursuant to paragraph (1) of this subsection shall be transferred in the form of interest-bearing securities of the United States.

"(c) The total amount of any deposit made to the Fund under section 8334(j) of this title (relating to deposits covering periods of military service) in the case of a participant referred to in paragraph (1) of this subsection shall be refunded to the participant. The refund shall be paid out of sums in the Fund.

"§ 8474. Reemployed annuitants under a Government retirement system.

"(a) For the purposes of this section—

"(1) the term 'annuitant'—

"(A) in the case of the Civil Service Retirement and Disability System, shall have the same meaning provided in section 8331(9) of this title;

"(B) in the case of the Foreign Service Retirement and Disability System, shall have the same meaning provided in section 804(1) of the Foreign Service Act of 1980 (22 U.S.C. 4044(1)), except that such term does not include a survivor; and

"(C) in the case of the Central Intelligence Agency Retirement and Disability System, means—

"(i) any participant who is referred to in section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and

"(ii) any individual who formerly was such a participant, entitled to an annuity from the Central Intelligence Agency Retirement and Disability Fund;

"(2) the term 'Government retirement system' means—

"(A) the Civil Service Retirement and Disability System under subchapter III of chapter 83 of this title;

"(B) the Foreign Service Retirement and Disability System under chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.); and

"(C) the Central Intelligence Agency Retirement and Disability System under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); and

"(3) the term 'reemployed annuitant' means an annuitant who becomes employed by the Government after the effective date of the Civil Service Pension Reform Act of 1985 and is required by section 8402 of this title to be a participant.

"(b) A reemployed annuitant shall retain entitlement in the Government retirement system under which the annuitant is receiving an annuity.

"(c)(1) Service that is creditable under the Government retirement system of a reemployed annuitant shall be credited under this chapter only for the purpose of determining eligibility to retire entitled to an annuity under section 8411 of this title.

"(2) Service performed as a reemployed annuitant shall not be creditable service for the purposes of the Government retirement system of the reemployed annuitant.

"(d)(1) The rates of basic pay in effect for a reemployed annuitant on and after the date the annuitant begins to participate in the System shall be taken into account in computing the annuitant's average pay for the purposes of the Government retirement system under which the annuitant was receiving an annuity when the reemployment commenced.

"(2) The rates of basic pay in effect for a reemployed annuitant before the date the annuitant begins to participate in the System shall be taken into account in computing the annuitant's average pay for the purposes of this chapter.

"(e) Deductions may not be withheld from the pay of a reemployed annuitant for the purposes of the reemployed annuitant's Government retirement system while the reemployed annuitant is a participant in the System.

"§ 8475. Exemption from certain offset provisions of the Social Security Act

"Sections 202(b)(4), 202(c)(2), 202(e)(7), 202(f)(2), 202(g)(4), and 215(a)(7) of the Social Security Act shall not apply in the case of a person who is a participant referred to in section 8471 of this title.

"§ 8476. Regulations

"The Office may prescribe regulations to carry out this subchapter."

#### SUBCHAPTER VIII—CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT SYSTEM

"§ 8491. Civil Service Thrift Investment Board

"(a) There is established in the executive branch of the Government a Civil Service Thrift Investment Board.

"(b)(1) The Board shall be composed of—

"(A) the Chairman of the Federal Reserve Board;

"(B) the Secretary of the Treasury;

"(C) the Director; and

"(D) two representatives of Federal employee organizations appointed by the President, one of whom shall be a representative from a labor organization (as defined in section 7103(a)(4) of this title) and one of whom shall be a representative from an organization for employees who are managers.

"(2) If an office referred to in paragraph (1)(A), (1)(B), or (1)(C) of this subsection is vacant, the person acting as the officer in such office shall be a member of the Board while acting as such officer.

"(3) The Chairman of the Federal Reserve Board shall be the Chairman of the Board.

"(4) The members of the Board appointed under paragraph (1)(D) of this subsection shall serve until replaced by the President.

"(c) The Board shall—

"(1) establish policies and prescribe regulations for—

"(A) the investment and management of the Thrift Savings Fund; and

"(B) the administration of subchapter III of this chapter and the provisions of subchapter IV of this chapter which relate to survivor annuities payable out of the Thrift Savings Fund;

"(2) review the performance of investments made for the Thrift Savings Fund;

"(3) without regard to civil service and classification laws, fix the rate of pay of the Executive Director;

"(4) supervise the Executive Director; and

"(5) review and approve the budget of the Board.

"(d)(1) The Board may—

"(A) adopt, alter, and use a seal;

"(B) adopt, amend, and repeal regulations to carry out its functions;

"(C) disapprove any action of the Executive Director;

"(D) except as provided in paragraph (2) of this subsection, direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this subchapter and subchapter III of this chapter, the provisions of subchapter IV of this chapter which relate to survivor annuities payable out of the Thrift Savings Fund, and the policies of the Board;

"(E) upon the concurring votes of four members, remove the Executive Director from office for good cause shown; and

"(F) take such other action as may be necessary to carry out the functions of the Board.

"(2) Except in the case of investments required by section 8427 of this title to be in-

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vested in securities of the Government, the Board may not direct the Executive Director or any contractor under a contract awarded under section 8493(c)(2) this title to invest or to cause to be invested any sums in the Thrift Savings Fund in a specific asset or to dispose of or cause to be disposed any specific asset of such Fund.

## "§ 8492. Civil Service Thrift Advisory Committee

"(a)(1) The Board shall establish a Civil Service Thrift Advisory Committee (hereafter in this subchapter referred to as the 'Advisory Committee').

"(2)(A) The Advisory Committee shall be composed of 6 members appointed as provided in subparagraph (B) of this paragraph.

"(B) The members of the Advisory Committee shall be appointed by action agreed to by a majority of the members of the Board. Three of the members of the Advisory Committee shall be appointed from among investment asset managers not employed by the Government and three of the members of the Advisory Committee shall be appointed from among administrators of thrift savings plans established for employees of private sector enterprises.

"(3) The Board shall prescribe the terms and conditions of service of the members of the Advisory Committee.

## "(b) The Advisory Committee shall—

"(1) advise the Board and the Executive Director on matters relating to—

"(A)(i) investment policy for the Thrift Savings Fund;

"(ii) selection of the types of investment funds which are appropriate for investment of sums in the Thrift Savings Fund; and

"(iii) selection of investment managers for the purpose of contracting for the administration of investment funds under section 8493(c)(2) of this title; and

"(B)(i) the performance of the duties of the Board and the Executive Director under the provisions of this subchapter and subchapter III of this chapter and the provisions of subchapter IV of this chapter which relate to survivor annuities payable out of the Thrift Savings Fund; and

"(ii) the administration of such provisions; and

"(2) review the performance of investments made for the Thrift Savings Fund.

## "§ 8493. Executive Director

"(a)(1) The Board shall appoint an Executive Director by action agreed to by a majority of the members of the Board. The Executive Director shall have substantial experience, training, or expertise in the management of financial investments.

"(2) The Board shall prescribe the terms and conditions of service of the Executive Director.

## "(b) The Executive Director shall—

"(1) carry out the policies established by the Board;

"(2) invest and manage the Thrift Savings Fund in accordance with the investment and other policies established by the Board;

"(3) provide for payment of annuities and other authorized distributions from the Thrift Savings Fund under this chapter; and

"(4) administer the provisions of this subchapter, subchapter III of this chapter, the provisions of subchapter IV of this chapter which relate to survivor annuities payable out of the Thrift Savings Fund, and the regulations prescribed by the Board.

## "(c) The Executive Director, may—

"(1) without regard to civil service and classification laws, appoint, employ, and fix the compensation of such personnel as may be necessary to carry out the provisions of this subchapter and subchapter III of this chapter and the provisions of subchapter IV

of this chapter which relate to survivor annuities payable out of the Thrift Savings Fund;

"(2) enter into such contracts or other arrangements (including contracts for the performance of administrative services), and make such modifications thereof, as may be appropriate to carry out the provisions of this subchapter and section 8427 of this title and the policies of the Board;

"(3) except as provided in section 552a of this title, obtain from any Federal agency, including any independent establishment or instrumentality of the United States, advice, information, estimates, statistics, and such other assistance as the Executive Director considers necessary to carry out the provisions of this subchapter and subchapter III of this chapter, the provisions of subchapter IV of this chapter which relate to survivor annuities payable out of the Thrift Savings Fund, and the policies of the Board;

"(4) make such payments out of sums in the Thrift Savings Fund as the Executive Director determines are necessary to carry out the provisions of this subchapter, subchapter III of this chapter, the provisions of subchapter IV of this chapter which relate to survivor annuities payable out of the Thrift Savings Fund, and the policies of the Board;

"(5) pay the compensation, per diem, and travel expenses of personnel from the Thrift Savings Fund;

"(6) accept and utilize the services of individuals employed intermittently in the Government service and reimburse such individuals for travel expenses, as authorized by section 5703 of this title, including per diem as authorized by section 5702 of this title;

"(7) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of the Executive Director's functions to such officers and employees under the Board as the Executive Director may designate and authorize such successive delegations of such functions to such officers and employees under the Board as the Executive Director may consider to be necessary or appropriate; and

"(8) take such other actions as are appropriate to carry out the functions of the Executive Director.

## "§ 8494. Investment policy

"The Board shall develop investment policies under section 8491(c)(1) of this title which provide for—

"(1) prudent investments suitable for accumulating funds for payment of retirement income;

"(2) investment strategies which do not require a significant level of active investment decisionmaking in the case of the investment funds established under subparagraphs (B) and (C) of section 8427(b)(1) of this title;

"(3) low administrative costs; and

"(4) investments likely to receive broad acceptance by participants and the public.

## "§ 8495. Administrative provisions

"(a) The Board shall meet—

"(1) not less than once during each fiscal year; and

"(2) at additional times at the call of the Chairman.

"(b)(1) Except as provided in section 8491(d)(1)(E) of this title, the Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board.

"(2) A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.

"(c) Three members of the Board shall constitute a quorum for the transaction of business.

"(d)(1) Each member of the Board who is not a Federal employee and each member of the Advisory Committee shall be compensated at the daily rate of basic pay payable for grade GS-18 under the General Schedule for each day or part thereof during which such member is engaged in performing a function of the Board or Advisory Committee, as the case may be.

"(2) Each member of the Board who is not a Federal employee and each member of the Advisory Committee shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of this title while traveling away from his home or regular place of business in the performance of the duties of the Commission or Advisory Board, as the case may be.

"(e) The accrued annual leave of any employee who is a member of the Board shall not be charged for any time used in performing service for the Board during any work period.

"(f) Section 14(a)(2) of the Federal Advisory Committee Act (86 Stat. 776; 5 U.S.C. App.) shall not apply to the Advisory Committee.

## "§ 8496. Fiduciary responsibilities: liability and penalty

"(a) For the purposes of this section—

"(1) the term 'fiduciary' means—

"(A) with respect to the Thrift Savings Fund, each member of the Board and the Executive Director; and

"(B) any person who, with respect to the Thrift Savings Fund, is described in section 3(21)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(21)(A));

"(2) the term 'party in interest' includes—

"(A) any fiduciary;

"(B) any counsel to a fiduciary;

"(C) any person providing services to the Board or the Executive Director;

"(D) a labor organization the members of which are participants;

"(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subclause (A), (B), or (C) of this clause; and

"(F) a corporation, partnership, or trust or estate of which, or in which, 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;

"(ii) the capital interest or profits interest of such partnership; or

"(iii) the beneficial interest of such trust or estate.

is owned directly or indirectly, or held by a person described in subclause (A), (B), (C), or (E) of this clause; and

"(3) the term 'person' means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

"(b)(1) A fiduciary shall discharge his responsibilities with respect to the Thrift Savings Fund or applicable portion thereof solely in the interest of the participants and beneficiaries and—

"(A) for the exclusive purpose of—

"(i) providing benefits to participants and their beneficiaries; and

"(ii) defraying reasonable expenses of administering the Thrift Savings Fund or applicable portions thereof;

"(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like objectives; and

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"(C) to the extent permitted by section 8427 of this title, by diversifying the investments of the Thrift Savings Fund or applicable portions thereof so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

"(2) No fiduciary may maintain the indicia of ownership of any assets of the Thrift Savings Fund outside the jurisdiction of the district courts of the United States.

"(c) A fiduciary shall not—

"(1) deal with any assets of the Thrift Savings Fund for his own account;

"(2) act, in his individual or any other capacity, in any transaction involving the Thrift Savings Fund on behalf of a party whose interests are adverse to the interests of the Thrift Savings Fund or the interests of its participants or beneficiaries;

"(3) receive any consideration for his own personal account from any party dealing with sums credited to the Thrift Savings Fund in connection with a transaction involving assets of the Thrift Savings Fund, except fees which the fiduciary is entitled to receive as provided in a contract awarded under section 8493(c)(2) of this title;

"(4) permit the transfer of any assets of the Thrift Savings Fund to or the use of such assets by any person known to be a party in interest, except in return for adequate consideration; or

"(5) permit the acquisition of any property from or services by any person known to be a party in interest, except in exchange for adequate consideration.

"(d) This section does not prohibit any fiduciary from—

"(1) receiving any benefit which the fiduciary is entitled to receive under this chapter as a participant, a former participant, or a beneficiary of a participant or former participant;

"(2) receiving any reasonable compensation authorized by this title for services rendered, or for reimbursement of expenses properly and actually incurred, in the performance of the fiduciary's duties under this chapter; or

"(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

"(e)(1)(A) Any fiduciary that breaches the responsibilities, duties, and obligations set out in subsection (b) of this section or violates subsection (c) of this section shall be liable to the Thrift Savings Fund for any losses to such fund resulting from each such breach or violation and to restore to such fund any profits made by the fiduciary through use of assets of such fund by the fiduciary, and shall be subject to such other equitable or remedial relief as a court considers appropriate. A fiduciary may be removed for a breach referred to in the preceding sentence.

"(B) The Attorney General of the United States may assess a civil penalty against a party in interest engaging in a transaction prohibited by subsection (c) of this section. The amount of such penalty may not exceed 5 percent of the amount involved (as defined in section 4975(f)(4) of the Internal Revenue Code of 1954); except that, if the transaction is not corrected (in such manner as the Attorney General shall prescribe by regulation consistent with section 4975(f)(5) of the Internal Revenue Code of 1954) within 90 days after the date the Attorney General transmits notice to the party in interest (or such longer period as the Attorney General may permit), such penalty may be in an amount not more than 100 percent of the amount involved.

"(C) A fiduciary shall not be liable under subparagraph (A) of this paragraph with respect to a breach of fiduciary duty under subsection (b) of this section committed

before becoming a fiduciary or after ceasing to be a fiduciary.

"(2) A civil action may be brought in the district courts of the United States—

"(A) by the Attorney General of the United States—

"(i) to determine and enforce a liability under paragraph (1)(A) of this subsection; or

"(ii) to collect any civil penalty under paragraph (1)(B) of this subsection; or

"(B) by the Attorney General of the United States, any participant, annuitant, former participant who is entitled to a deferred annuity under section 8412 of this title, other beneficiary, or fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c) of this section; or

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision.

"(3) An action may not be commenced under paragraph (2) of this subsection with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) of this section or a violation of subsection (c) of this section after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation; except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation."

(b) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 83 the following new item:

"84. Civil Service Pension System ..... 8401."

## TITLE II—AMENDMENTS RELATING TO SOCIAL SECURITY

### AMENDMENTS TO THE SOCIAL SECURITY ACT

Sec. 201. Section 210(a)(5) of the Social Security Act is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by striking out the semicolon at the end of subparagraph (G) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) service performed by an individual after such individual has commenced participation in the Civil Service Pension System pursuant to section 8471 of title 5, United States Code;".

### AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Sec. 202. Section 3121(b)(5) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by striking out the semicolon at the end of subparagraph (G) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) service performed by an individual after such individual has commenced participation in the Civil Service Pension System pursuant to section 8471 of title 5, United States Code;".

## TITLE III—MISCELLANEOUS AND CONFORMING AMENDMENTS

### EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT CONTRIBUTION TEMPORARY ADJUSTMENT ACT OF 1983

Sec. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A), 203(a)(4)(B), 204(a), 208(b)(2)(A)(i), and 208(c)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note) are amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1987".

(b) Section 205 of such Act is amended by striking out "and 1986" in subsections (b) and (c) and inserting in lieu thereof "1986, and 1987".

### MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED STATES CODE

Sec. 302. (a) Section 8331(1)(G) of title 5, United States Code, is amended to read as follows:

"(G) an individual first employed by the government of the District of Columbia before January 1, 1987;".

(b) Section 8332 of such title is amended by adding at the end thereof the following new subsection:

"(n) Except as provided in section 8472(b) of this title, service performed while a participant in the Civil Service Pension System under chapter 84 of this title is not creditable under this section."

(c)(1) The first sentence of section 8333(b) of such title is amended by inserting "or chapter 84 of this title" after "subject to this subchapter".

(2) Section 8333(c) of such title is amended by adding at the end thereof the following new sentence: "The requirements of the first sentence shall apply only with respect to the civilian service performed by a Member while not a participant in the Civil Service Pension System under chapter 84 of this title".

(d) Subsection (a) of section 8334 of such title is amended—

(1) in the first sentence of paragraph (1), by striking out "The employing" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, the employing"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) In the case of an employee or Member who was subject to this subchapter before January 1, 1984, and whose service—

"(i) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954; and

"(ii) is not creditable service for any purpose under chapter 84 of this title, an employing agency shall deduct and withhold from the basic pay of the employee or Member under paragraph (1) of this subsection during any pay period only the amount computed pursuant to subparagraph (B) of this paragraph.

"(B) The amount deducted and withheld from basic pay during any pay period pursuant to subparagraph (A) of this paragraph in the case of an employee or Member referred to in such subparagraph shall be the excess of—

"(i) the amount determined by multiplying the percent applicable to the employee or Member under paragraph (1) of this subsection by the basic pay payable for such pay period, over

"(ii) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of the Internal Revenue Code of 1954 for such pay period".

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(e) Section 8339 of such title is amended by adding at the end thereof the following new subsection:

"(O)(1) Effective on the first day of the month in which an annuitant or a survivor becomes 62 years of age, the annuity or survivor annuity computed under the other subsections of this section shall be reduced by an amount equal to the amount (if any) by which the annuitant's or survivor annuitant's benefit under title II of the Social Security Act exceeds the amount of such benefit to which he would be entitled if the service described in paragraph (2) of this subsection were not taken into account.

"(2) The service described in this paragraph is the civilian service that is covered by amounts deducted and withheld as provided in section 8334(a)(3) of this title and is taken into account for the purpose of computing—

"(A) the annuity or survivor annuity; and  
(B) benefits under such title of the Social Security Act."

(f) Section 8347(a) of such title is amended by adding at the end thereof the following: "The Office may contract for the performance of administrative services necessary to carry out its responsibilities under this subchapter".

(g) Section 8348(a) of such title is amended—

(1) in paragraph (1)(A), by inserting "or the provisions of chapter 84 of this title which relate to benefits payable out of the Fund" after "subchapter"; and

(2) in paragraph (2), by inserting ", chapter 84 of this title," after "chapter".

## CONFORMING PROVISIONS FOR THE POSTAL SERVICE RETIREMENT SYSTEM

Sec. 303. Section 1005(d) of title 39, United States Code, is amended to read as follows:

"(d) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapters 83 and 84 of title 5 according to the provisions of such chapters. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such chapter 83. The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts specified or determined under subchapters II and V of such chapter 84. The Postal Service shall pay into the Civil Service Thrift Savings Fund the amounts specified in or determined under subchapter III of such chapter 84".

## GROUP LIFE INSURANCE FOR CERTAIN PARTICIPANTS IN THE CIVIL SERVICE PENSION SYSTEM

Sec. 304. (a) Subsection (b) of section 8702 of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Paragraph (1) of this subsection shall not apply to an employee who is required by section 8402 of this title to be a participant in the Civil Service Pension System."

(b) Subsection (a) of section 8707 of such title is amended—

(1) by striking out "(a) During" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2) of this subsection, during"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Paragraph (1) of this subsection shall not apply to an employee who is required by section 8402 of this title to be a participant in the Civil Service Pension System."

(c) Subsection (a) of section 8708 of such title is amended—

(1) by striking out "(a) For" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2) of this subsection, for"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For each period for which an employee referred to in section 8707(a)(2) of this title is insured under a policy of insurance referred to in paragraph (1) of this subsection, a sum equal to one and one-half times the amount which, but for such section 8707(a)(2), would be withheld from the pay of the employee under section 8707(a)(1) of this title shall be contributed from the appropriation or fund which is used to pay the employee."

## HEALTH BENEFIT PLAN ELIGIBILITY FOR FORMER SPOUSES

Sec. 305. (a) Section 8901(10) of title 5, United States Code, is amended—

(1) in subparagraph (C)(i)—

(A) by inserting "or 8467" after "8345(j)"; and

(B) by inserting "or 8434" after "8341(h)"; and

(2) in subparagraph (C)(ii)—

(A) by inserting "or 8434" after "8341(h)"; and

(B) by inserting "or 8467" after "8345(j)".

(b)(1) Subsection (b) of section 8905 of such title is amended—

(A) by redesignating subparagraphs (A), (B), and (C) of paragraph (1) as clauses (i), (ii), and (iii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(C) by inserting "(1)" after "(b)"; and

(D) by adding at the end thereof the following new paragraph (2):

"(2) A member of family of a deceased employee or annuitant who was enrolled in a health benefit plan under this chapter on the date of death of the employee or annuitant may continue the enrollment under the conditions of eligibility prescribed in regulations issued by the Office."

(2) Subsection (c)(1) of such section is amended—

(A) in subparagraph (B), by inserting "or 8435(a)(1)"; and

(B) in the second sentence—

(i) by inserting "or 8434" after "8341(h)"; and

(ii) by inserting "or 8467" after "8345(j)".

## EMPLOYEES OF CERTAIN NONAPPROPRIATED FUND INSTRUMENTALITIES

Sec. 306. Section 2105(c) of title 5, United States Code, is amended by inserting ", chapter 84," after "chapter 81" in clause (2) of the first sentence.

## TITLE IV—AUTHORIZATION AND EFFECTIVE DATES

## FIRST YEAR EXPENSES OF THE CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT SYSTEM

Sec. 401. (a) Notwithstanding section 8428(c)(3) of title 5, United States Code, as added by section 101 of this Act, the expenses incurred in the administration of the Civil Service Thrift Investment Management System prescribed in subchapter VIII of chapter 84 of such title, as added by section 101 of this Act, during fiscal years 1986 and 1987 shall be paid from sums appropriated pursuant to subsection (b).

(b) There are authorized to be appropriated to the Civil Service Thrift Investment Board, for fiscal years 1986 and 1987, such sums as may be necessary to pay the expenses incurred in the administration of the Civil Service Thrift Investment Management System prescribed in subchapter VIII of chapter 84 of title 5, United States Code, as added by section 101 of this Act, during such fiscal years.

## EFFECTIVE DATES

Sec. 402. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect January 1, 1987.

(b) Subchapter VIII of chapter 84 of title 5, United States Code (relating to the Civil Service Thrift Investment Management System), as added by section 101, shall take effect on the date of enactment.

(c) The program required by section 8426(e) of title 5, United States Code, as added by section 101(a) of this Act, shall be established not later than January 1, 1988.

## SECTION-BY-SECTION ANALYSIS

The opening section (section 2) provides for the purpose of the legislation. The purposes delineated include providing a stable and flexible retirement plan which is comparable to good private sector retirement benefits plans, enhancing portability of retirement assets between Federal jobs and jobs outside the Federal government, and ensuring a fully funded and financially sound federal retirement program.

## TITLE I—CIVIL SERVICE PENSION SYSTEM

Section 101(a) amends title 5, United States Code, by inserting a new chapter 84, entitled "Civil Service Pension System" (CSPS).

Subchapter I of this chapter provides definitions for administration of the CSPS, many of which are the same as or similar to those used in chapter 83 of title 5. New or modified definitions include average pay (highest 5 years) and basic pay (rate established pursuant to law, without regard to any limits on authority to pay). Definitions of firefighter and law enforcement officer are more specific than those used in chapter 83. The subchapter also identifies the participants in the new CSPS and specifies its relationship to the Social Security Act. Employees of the District of Columbia are specifically excluded. Employees of the current Civil Service Retirement System (CSRS) are included if they so choose pursuant to Section 8471.

Subchapter II describes the basic retirement plan, which is a defined benefits plan applicable to all permanent employees covered by the Social Security System on or after January 1, 1984 and any employees subject to the CSRS who elect to join the CSPS.

Section 8411 lists the combinations of age and service which establish entitlement to an immediate annuity.

Subsections (a) and (b) provide for an immediate annuity at age 55 with 10 years of service and age 62 with 5 years of service.

Subsections (c) and (d) provide for an immediate annuity to the special retirement classes (law enforcement officer, firefighter, or air traffic controller) after 25 years of service in the occupation.

Subsection (e) provides for an immediate annuity to an employee who is separated from the service involuntarily and who has completed 25 years of service or is not less than age 50 with 20 years of service.

Subsection (f) provides that the annuity authorized by this section is computed under sections 8413 through 8415 of this title.

Section 8412 provides for deferred retirement at age 62 to a participant who is under age 62 and separates from Federal employment after completing 5 years of service or at age 55 to a participant who is under age 55 and separates from Federal employment after completing 10 years of service.

Section 8413 provides the formula for computing the annuity a participant is entitled to receive. The formula is one percent of the average pay over the five highest consecutive years multiplied by the number of years of service. For the special retirement classes, an annuity supplement equal to the estimated amount of Social Security bene-

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fits payable at age 62 will be paid to annuitants from age 65 until age 62. This supplement will be increased annually by the percent increase in the Social Security Act average wage index. A pro rata formula for part time service is also specified.

Section 8414 provides for reduction of an immediate annuity that begins before age 62. The reduction is two percent for each year the participant is under age 62 on the date of a voluntary retirement at age 55 with 30 years of service or an involuntary retirement under section 8411(e). The annuity is reduced by five percent for each year the participant is under age 62 for a participant who elects to receive an annuity after age 55 but before completing 30 years of service. A five percent reduction for each year the participant is under age 55 applies to law enforcement officers, firefighters, air traffic controllers, and military reserve technicians.

Section 8415 provides for actuarially reducing an annuity to provide for one or more survivor annuities.

Subsection (a) provides for an automatic annuity reduction to provide a survivor annuity to the spouse of a married participant unless the participant and his or her spouse jointly waive the spouse's right to a survivor annuity as provided in section 8416.

Subsection (b) provides for an automatic annuity reduction when the participant has elected to provide a survivor annuity to a former spouse.

Section 8416 provides that OPM shall prescribe methods of payment of annuities and participant election of the method preferred. Included in those methods are a single life annuity and a joint-and-survivor annuity. An individual designated as having an insurable interest in the annuitant may receive an survivor annuity under this provision.

An individual who is married on the date he or she applies for payment of the annuity to begin may elect a method of payment other than a joint-and-survivor method only if the individual and his or her spouse jointly waive an annuity under this method.

Section 8417 provides that a participant who retires voluntarily prior to age 62 may elect to have his or her annuity payments adjusted in such a way that the total amount received before and after receipt of Social Security benefits begin is approximately the same. This does not apply to deferred retirement or to the special retirement classes.

Section 8418 provides that each Federal agency shall contribute an amount equal to the normal cost of the benefits for the agency's employees, as determined by OPM. It also provides for a yearly determination of the Fund's supplemental liability which is to be amortized over 30 years by payments from the Secretary of the Treasury or the Postmaster General of the United States, as appropriate. OPM may use the current CSRS Board of Actuaries for making actuarial determinations and valuations for the CSRS.

Section 8419 provides that military service is creditable service and that the Department of Defense Military Retirement Fund shall reimburse the fund annually for the normal cost relating to the military service of employees and members who become participants during the fiscal year. This excludes employees covered by the CSRS who elect under section 8471(a) to join the CSRS.

Subchapter III describes the thrift savings plan, which is an optional plan permitting participants to contribute a percentage of their basic pay or disability benefits to a selected investment vehicle and have those contributions matched by the government.

Section 8421 allows participants to contribute up to 10 percent of their basic pay to the thrift plan. Those participants who are receiving disability benefits may contribute up to 10 percent of the disability benefits payable. An opportunity to change the contribution amount will be provided at least annually. Employing agencies are required to match the participant's contribution, up to five percent of the participant's annual rate of basic pay or the disabled participant's disability benefits. Amounts contributed to the thrift fund are not included in the employee's current gross income for income tax purposes.

Section 8422 provides a vesting schedule for the thrift plan. A participant immediately vests in his contributions and their earnings. Beginning after one year of service, the participant vests in 30 percent of the employer's contribution. This increases by 30 percent for each additional year of participation up to five years and beyond, when the entire share contributed by the employer, plus interest, is vested. A participant who dies while employed by the government immediately vests in 100 percent of the employer's contribution and the earnings on it. For a participant who separates from employment before becoming entitled to an immediate annuity, any employer contributions which he has not vested in are transferred to the Treasury for credit to Miscellaneous Receipts.

Section 8423 describes the optional ways an employee may choose from to receive thrift account payments from the thrift plan at separation from employment, depending on his or her status under the basic pension plan.

Subsection (a) permits a participant who is entitled to an immediate annuity to elect one of the four methods below:

- (1) An immediate annuity
- (2) A deferred annuity
- (3) A lump sum or installment withdrawal
- (4) Transfer to an individual retirement account or other qualified retirement plan

Subsection (b) permits a participant who is entitled to a deferred annuity to elect one of the methods described above. For the first three methods, the money is not payable until the date of the participant's eligibility for retirement.

Subsection (c) permits a participant who is not eligible for any pension to elect one of the three methods below:

- (1) An annuity at age 62
- (2) A lump sum or installment withdrawal at age 62
- (3) Transfer to an individual retirement account or other qualified retirement plan

Subsection (d) permits a participant who elected to defer an annuity payment to modify the date specified in that election.

Section 8424 describes how annuities available from the thrift plan will be computed and paid. The Thrift Investment Board will prescribe methods of payment which must include a single life annuity and a joint-and-survivor annuity. An individual designated as having an insurable interest in the annuitant is also covered under this provision. The amounts will be determined actuarially. Methods for providing annual increases in the annuity payable must also be prescribed.

Section 8425 provides rules for elections by participants entitled to payments or transfers from the thrift plan.

Section 8426 establishes the Thrift Savings Fund and prescribes how money in the Fund may be used. Included in these uses is a requirement for the Board to establish a program to make loans to participants in cases of hardship.

Section 8427 describes how employee and employer money will be invested.

Subsection (a) defines terms used in application of this section.

Subsection (b) requires the Board to establish three funds under which sums in the Thrift Savings Fund may be invested and provides an option to establish other funds. The funds are:

(1) A Government Securities Investment Fund which is invested in special issues of the Treasury.

(2) A Fixed Income Investment Fund which is invested in insurance contracts, certificates of deposits, or other instruments.

(3) A Common Stock Index Investment Fund which is invested in common stock issues included in a commonly recognized stock index, with the percentage invested in a given stock to be the same as the percentage of that stock's market value included in the index.

Subsection (c) specifies that sums in the Thrift Fund, which are not designated or available to be invested in one of the other investment funds will be invested in the Government Securities Investment Fund.

Subsection (d) states that participants may elect, at least once each year, the investment funds into which they wish to have their Thrift Savings Fund invested or reinvested.

Subsection (e) specifies that, during the implementation phase of the Thrift Savings Fund, a certain percentage of the contributions made by and for the participant must be invested in Government Securities Investment Fund. For participant contributions, the initial amount is 100%, reduced by 20% each year over a five year period, beginning in 1988. For agency contributions, the same phasing schedule applies, beginning in 1993. All amounts earned on these contributions must be reinvested in the Government Securities Investment Fund. Participants hired during the temporary adjustment period will have contributions for that period, as described in section 8473(b), invested in the Government Securities Fund.

Subsection (f) provides for the Secretary of the Treasury to issue, as needed by the Fund, two year notes bearing an interest rate equal to the average market yield of all such notes as of the end of the month preceding the date of issue.

Section 8428 prescribes how the Executive Director is to account for the funds of each participant in the System and requires that the participant be provided an annual statement of his or her account. An annual audit report by an independent qualified public accountant is also required.

Subchapter IV describes the benefits available to survivors of deceased participants and former participants from the basic plan and the thrift plan.

Section 8431 provides for payment of death benefits from the basic plan to the surviving spouse of a participant or a former participant other than an annuitant if the deceased had five or more years of service. If the participant or former participant was eligible to retire, the survivor gets 50 percent of the accrued annuity (computed as if he or she had retired the day before death, with any applicable reductions for early retirement and for election of a survivor benefit). If he or she was not eligible to retire, the benefit is computed as described above but payment is delayed until the date he or she would have been eligible to retire.

Section 8432 provides for payment of death benefits from the basic plan to the survivor of an annuitant in accordance with an election under section 8418, 8434(a), or 8436(c).

Section 8433 provides for survivor benefits from the thrift savings plan. If the deceased

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participant or former participant is not survived by a spouse, payment is made to an individual designated as having an insurable interest or, if no such designation was made, to the deceased individual's estate. A surviving spouse entitled to payment of benefits may elect to receive the money under one of three methods. These are:

- (1) An annuity
- (2) Transfer of the money to an individual retirement account

- (3) Lump sum or installment withdrawal

Section 8434 provides for basic and thrift savings plan survivor benefits to a spouse acquired after payment of the annuity begins. The election is effective the first day of the second month beginning after the election is received but not earlier than nine months after the date of the marriage. A deposit to retroactively fund this election is required as needed. An election of an annuity reduction to provide this benefit is not permitted if the spouse acquired after retirement was married to the annuitant when payment of the annuity began and the annuitant and spouse had jointly waived the right to a survivor benefit.

Section 8435 states the entitlement of eligible former spouses to receive survivor benefits from the basic plan and the thrift plan. The benefits from the basic plan are the same as for a surviving spouse under sections 8416, 8431, or 8432. Benefits from the thrift fund are determined actuarially.

Section 8436 provides for an annuitant to elect a survivor benefit from the basic plan and the thrift plan for an eligible former spouse.

Subsection (a) permits an annuitant who has a former spouse to elect an annuity reduction in order to provide a survivor annuity to such former spouse. The election must be made on or before the date the annuitant applies for payment of an annuity from the basic plan or, if later, within two years after the date on which the marriage of the former spouse to the annuitant is dissolved. A deposit, computed to reflect the amount by which the annuity would have been reduced if it had been continuously in effect since the date the annuity commenced, is required. An election for an annuity reduction to provide a survivor benefit to a former spouse shall not be effective if it:

- (1) conflicts with a court order or decree.
- (2) exceeds the funds available to pay it, or

- (3) is made without the written consent of the annuitant's spouse.

Subsection (b) provides that an annuitant whose annuity is being reduced to provide a survivor benefit to a former spouse may elect to provide or increase a survivor annuity for any former spouse. This election must occur within two years after the former spouse's date of death or remarriage before age 55.

Subsection (c) provides for an annuitant to elect to provide a survivor annuity to his or her spouse if the entitlement of an eligible former spouse is terminated or reduced due to remarriage or death.

Subsection (d) provides for a waiver of the requirement that the spouse of a retiree waive a right to a survivor benefit in certain situations.

Section 8437 provides for termination of a survivor annuity on death of the spouse or former spouse, dissolution of the marriage, or remarriage of the former spouse before reaching age 55.

Section 8438 covers deposits to the Fund.

Subsection (a) requires a market rate of interest payment on any deposit needed to fund an annuity election under section 8434(c) or 8436.

Subsection (b) provides for offsetting the retiree's annuity if the required deposit is not made.

Subsection (c) permits OPM to extend the time limit for making the required deposit.

Subchapter V describes the disability benefits available to a participant who has at least 18 months of service.

Section 8441 provides definitions for the administration of this benefit.

Section 8442 provides that an eligible participant is entitled to receive benefits under this subchapter if disabled based on the Social Security definition and under 62 or if unable to work in his current position, not qualified for reassignment, and under 55. At age 62/55, the annuity is payable under the basic plan provisions of subchapter II based on at least 5 years actual service plus projected service through age 62/55. Average pay for the purpose of converting the disabled person from the disability rolls to the retirement rolls at age 62/55 is the average pay on the date of disability, increased each time after that date by the Consumer Price Index minus two percentage points.

Section 8443 provides the following methods for computing disability benefits:

(1) If eligible for Social Security or ineligible for Social Security only as a result of insufficient quarters of coverage, 60 percent of average pay minus 100 percent of the Social Security benefit while the participant is under age 62.

(2) If occupationally disabled, 60 percent of average pay for the first year. After the first year, 40 percent of average pay minus Social Security benefits, if any, while the participant is under 55 years of age.

Section 8444 requires a claim for disability benefits to be filed before the date the participant separates from employment by the Federal Government or within 1 year after. This time limit may be waived by the administrator of benefits.

Section 8445 requires the administrator to direct medical examinations for disability retirement applicants or benefit recipients.

Section 8446 requires that an applicant who is determined able to perform the work required in any position offered by his employing agency for which he is qualified, is at the same grade or level as his current position, and is within his commuting area, must be considered for appointment to such position. The applicant is entitled to appeal a determination that he is able to perform the work required of such position.

Section 8447 provides for termination of disability benefits to an individual who recovers from the disability before reaching age 62 or, in the case of an employee who is occupationally disabled, age 55. Recovery is presumed to occur when income for one year equals 60 percent of the current pay for the individual's former grade. These benefits may be resumed if there is a recurrence of disability. In the case of an individual whose benefits were terminated due to restored earning capacity, benefits are resumed if he is not reemployed within one year, his disability continues, and his income for one year is less than the amount establishing his restored earning capacity.

Section 8448 establishes that an individual is not entitled to receive both disability benefits under this chapter and injury compensation benefits under subchapter I of chapter 81 of this title for the same period of time.

Section 8449 provides for disability benefits for a military reserve technician who is separated from employment as a technician due to a disability which disqualifies him from membership in the National Guard or other reserve component, as the case may be, or from holding the military grade re-

quired for such employment and who is not placed in another position.

Section 8450 provides that OPM will contract with one or more insurance companies or other firms to serve as a third party administrator for the disability program provisions which OPM is not specifically required to administer. Each contract awarded may not exceed 8 years and may include a provision authorizing extensions for 1 year at a time.

Section 8451 provides requirements for an annual accounting by the third party administrator to OPM.

Section 8452 provides for the establishment of an Employees' Disability Insurance Fund in the U.S. Treasury and requires agencies to make payments to the fund from their salary appropriations.

Subchapter VI describes general provisions applicable to the administration of the basic plan.

Section 8461 provides that OPM shall pay all benefits payable under the basic plan from the Fund and shall administer all provisions not specifically required to be administered by the Board or any other agency. OPM is also authorized to contract for the performance of any of these functions.

Section 8462 provides for an annual adjustment to the basic pension as a result of an increase in the Consumer Price Index (CPI). The increase will be the percentage increase in CPI minus 2 percentage points. The adjustment is made in December (payable in January), and is based on the change from September to September. A pro rata share of the increase is payable to retirees or survivor annuitants for whom this is the first increase.

Section 8463 provides that each annuity and disability benefit is stated as an annual amount, one-twelfth of which is the monthly rate payable.

Section 8464 provides that a participant's annuity under the basic pension commences on the first day of the first month after the participant separates from government employment or such later date as he or she elects. It terminates on the date of death or other terminating event provided by law. It further provides that a survivor annuity commences on the first day of the first month after the date of death of the participant or retiree on whom the annuity is based and terminates on the last day of the last month ending before the surviving spouse dies or remarries before age 55, unless another date is specified in accordance with this chapter.

Section 8465 provides that an individual entitled to receive a basic pension may waive receipt of all or part of the benefits. An individual may also make allotments from the benefit payment.

Section 8466 provides that an application for benefits must be received before the former participant's 115th birthday; for survivor benefits, the application must be received within 30 years after the death or other event which establishes entitlement to the benefit.

Section 8467 requires compliance with the terms of a court order requiring payment of an annuity, in whole or in part, to another person.

Section 8468 provides for termination of an annuity when an annuitant is reemployed by the Government. Upon termination of the employment, his annuity right is redetermined. The amount of the annuity resulting from a redetermination may not be less than the amount of the terminated annuity plus any COLA increases.

Subchapter VII outlines the transition provisions for individuals covered by the

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CSRS who choose to participate in the CSPS.

Section 8471 permits participants in the current system (CSRS), other than District of Columbia government employees, to elect to participate in the new system (CSPS) during the first year it is in effect and to retain accrued credit for entitlement to benefits under the CSRS for service subject to that system. It also provides that rehires who are required to participate in the CSPS retain credit earned under CSRS and are permitted to deposit to the CSRS fund any amount previously refunded. Survivor benefits may be payable based on conditions of eligibility and service under both CSRS and CSPS.

Section 8472 provides that CSRS participants who elect to participate in the CSPS are allowed credit for service under both systems for purposes of determining eligibility to retire in both systems and of vesting in the thrift plan. Pay for such individuals subsequent to beginning participation in the CSPS is taken into account in computing average pay under both systems. Disability benefits are provided only under the CSPS.

Section 8473 provides that service by a participant during the temporary adjustment period will be recognized as years of participation for the purpose of vesting in the employer's contributions to the Thrift Savings Fund under section 8422. For such participants, moneys will be transferred from the Fund to the Thrift Savings Fund in an amount which equals twice his or her contributions plus interest for any calendar year at the rate determined under section 8334(e) of title 5. The amount transferred will be in the form of interest-bearing securities of the United States. For vesting purposes, half of the amount will be treated as a contribution from the participant and half as a contribution by the employing agency. Participants hired during the interim period who made a deposit to cover military service will receive a refund of the deposit.

Section 8474 defines "reemployed annuitant" for various Government retirement systems. This section provides that a reemployed annuitant retains entitlement to the Government retirement system under which he/she retired. It further provides that service performed as a reemployed annuitant under CSPS shall be credited only for eligibility to retire under CSPS and cannot be considered creditable service for the annuitant's previous retirement system. Also, pay earned as an employee before and after reemployment is considered in computing average pay under both the CSPS and the annuitant's Government retirement system.

Section 8475 excludes former CSRS participants who join the CSPS from the wind-fall reduction and the public pension offset provisions of the Social Security Act.

Section 8476 authorizes OPM to prescribe regulations to carry out this subchapter.

Subchapter VIII describes the Civil Service Thrift Investment Management System.

Section 8491 establishes a Civil Service Thrift Investment Board, composed of the Chairman of the Federal Reserve Board, the Secretary of the Treasury, the Director of OPM, and two representatives of Federal employee organizations appointed by the President, one of whom must be from a labor organization and one of whom must be from a Federal employee management organization. The Chairman of the Federal Reserve Board will chair the Board. Specific responsibilities of the Board are detailed here.

Section 8492 provides for the establishment of a Civil Service Thrift Advisory Committee, composed of six members appointed by the Board. Three are to be in-

vestment asset managers and three are to be administrators of thrift savings plans.

Section 8493 provides for the Board to appoint an Executive Director to carry out the policies of the Board in administering the Thrift Savings Fund. The Executive Director is authorized to enter into contracts as necessary to carry out these policies.

Section 8494 states the investment policy governing the Thrift Savings Fund. This includes a provision that investments chosen are likely to receive broad acceptance by participants and the public, and a provision that the two funds which specifically provide for private sector investment should not require a significant level of active investment decision-making.

Section 8495 provides rules of administration for the Board.

Section 8496 identifies fiduciaries and their responsibilities, defines "party in interest," states basic standards of fiduciary conduct, lists prohibited practices by fiduciaries, and describes penalties for committing a prohibited practice.

#### TITLE II—AMENDMENTS RELATING TO SOCIAL SECURITY.

Section 201 amends section 210(a) (5) of the Social Security Act to cover service performed by an individual who commences participation in the CSPS.

Section 202 amends section 3121(b)(5) of the Internal Revenue Code of 1954 to tax the wages of an individual who commences participation in the CSPS.

#### TITLE III—MISCELLANEOUS AND CONFORMING AMENDMENTS

Section 301 extends the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 from January 1, 1986 until January 1, 1987.

Section 302(a) amends section 8331 of title 5, United States Code, to limit coverage under the CSRS for District of Columbia government employees to those first employed before January 1, 1987.

Section 302(b) amends section 8332 of title 5, United States Code, by adding a new subsection excluding participant in the CSPS from receiving service credit under the CSRS, except in certain limited situations affecting participants retaining entitlement in the CSRS under section 8472.

Section 302(c) amends section 8333(b) of title 5, United States Codes to modify the requirement that an employee or Member must complete at least one year of creditable service as a participant in the CSRS out of the last two years before separation to include service under the CSRS. It also amends section 8333(c) by making the contribution requirements applicable only to service performed while not a participant in the CSPS.

Section 302(d) amends section 8334(a) of title 5, United States Code, relating to deductions from an employee's pay for both CSRS and Social Security coverage. An employee who was covered by the CSRS on December 31, 1985 and who was subsequently covered by Social Security will continue in the CSRS at a reduced contribution. The contribution to CSRS will be equal to the excess of the employee's normal CSRS contribution over the OASDI portion of the Social Security tax.

Section 302(e) amends section 8339 of title 5, United States Code, to specify that the CSRS benefit received by those covered under subsection (d) will be offset by 100% of the Social Security benefit attributable to federal service.

Section 302(f) amends section 8347(a) of title 5, United States Code, to permit OPM to contract for the performance of administrative services necessary to carry out its responsibilities under subchapter 83.

Section 302(g) amends section 8348(a) of title 5, United States Code, to clarify that the Civil Service Retirement and Disability Fund is available to pay benefits and administrative expenses for both chapters 83 and 84 of such title.

Section 303 amends section 1005(d) of title 39, United States Code, to include officers and employees of the Postal Service for coverage under the provisions of chapters 83 and 84 of title 5.

Section 304 requires agencies to pay all group life insurance basic plan costs for CSPS participants from salary appropriations.

Section 305 amends sections 8901(10) and 8905(c) of title 5, United States Code, to incorporate health benefit plan eligibility requirements for former spouses as a result of P.L. 98-615. It also amends section 8905(b) to permit a family member of a deceased employee or annuitant who was enrolled in a health benefits plan to continue that enrollment.

Section 306 amends section 2105(c) of title 5 to provide that chapter 84 does not apply to employees of certain non-appropriated fund instrumentalities.

#### TITLE IV—AUTHORIZATION AND EFFECTIVE DATES

Section 401 provides for payment of the fiscal year 1986 and 1987 expenses of the Civil Service Thrift Investment Board from appropriations.

Section 402 provides that this act takes effect January 1, 1987, except for subchapter VIII of chapter 84 (relating to the Civil Service Thrift Investment Board), which takes effect on the date of enactment, and the loan program required by section 8426(e) which must be established not later than January 1, 1988.

#### CONGRESSIONAL RESEARCH SERVICE.

THE LIBRARY OF CONGRESS,  
Washington, DC, July 25, 1985.

To: Senate Committee on Governmental Affairs, Senate Subcommittee on Civil Service, Post Office and General Services.

From: Dennis Snook, Leader, Civil Service Retirement Team.

Subject: CRS Analysis of the Stevens-Roth Plan for a Retirement System for Federal Workers Covered by Social Security.

#### COMPARISON OF ENTRY AGE NORMAL COST ESTIMATES OF CURRENT CSRS TO STEVENS-ROTH PLAN<sup>1</sup>

(In percent)

	Current CSRS (baseline)			Stevens-Roth plan	
	Em- ployer share	Em- ployee share	Total	Em- ployer share	Total (aver- age)
Defined benefit plan	25.0	7.0	32.0	11.7	11.7
Social security <sup>2</sup>				5.9	5.9
PEGI change <sup>3</sup>		2		2	2
Capital accumulation plan (voluntary) <sup>4</sup>				3.0	3.0
Full cost <sup>5</sup>	25.0	7.2	32.2	20.8	8.9
					29.7

<sup>1</sup> All cost figures are rounded to the nearest tenth of a percent. Administrative costs and benefits to special groups are excluded. Under the current CSRS these costs are estimated to be 0.1 and 0.3 percent of pay, respectively.

<sup>2</sup> Social security cost is the percentage of total Federal payroll taxable for social security (OASDI).

<sup>3</sup> Increased employer cost (0.2 percent) of Federal Employees Group Life Insurance (PEGLI) resulting from the employer assuming the full cost of Federal worker life insurance.

<sup>4</sup> For employees, cost of the capital accumulation plan is shown as the average cost. Average cost is determined by dividing the projected sum of all contributions (up to the specified matching limit of five percent for each employee) by the number of employees, assuming 100 percent rate of full participation. The cost to the Government is the employee cost times the matching rate minus the sum of unvested contributions (forfeited (0.03 percent) by separating employees).

<sup>5</sup> Average full cost: For the existing CSRS, includes the average employee contribution for life insurance coverage while working. For Stevens-Roth, includes average employee contribution and employer match to the capital accumulation plan.

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## CONGRESSIONAL RECORD — SENATE

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## ENTRY AGE NORMAL COST OF STEVENS-ROTH PLAN BY BENEFIT:

ENTRY AGE NORMAL COST OF STEVENS-ROTH PLAN BY BENEFIT <sup>1</sup>	Disability retirees	.1	Social security	* - 5.9
[Normal cost (percent of total Federal pay)]	Active employees	.3	Total employer cost	20.8
Defined benefit component	To children			
Annuities to employees	Subtotal	1.2		
Optional retirement	Refunds			
Involuntary retirement	Total benefits defined benefits	11.7		
Disability retirement <sup>2</sup>	Increased cost of FEGLI	.2		
Deferred retirement	Total benefits, capital accumulation	4.60		
Subtotal	Total benefits, social security	11.8		
Annuities to survivors of	Total benefits	29.7		
Age retirees	Less employee contributions			
	Defined benefit			
	Capital Accumulation	* - 3.0		

<sup>1</sup> Detail may not sum to totals due to rounding. Administrative costs and benefits to special groups are excluded.

- Includes deferred retirement benefits to disabled annuitants (0.5%)
- Net increase in Federal Employees Group Life Insurance (FEGLI) from changes made to that program as part of the Stevens-Roth Plan
- Based upon net employee contributions. (anno. Institutes of 0.02%)

- Based upon net employer contributions (which constitutes or 0.03%) average contribution for all workers including nonparticipants.
- Approximately 0.4 percent of payroll of the social security cost is not

approximately 64 percent of payroll or the social security cost is not distributed to Federal workers but flows to relatively lower-income social security participants outside the Federal government.

\* Social security average contribution as a percent of total payroll.

## REPLACEMENT RATES—CURRENT CIVIL SERVICE RETIREMENT SYSTEM

(in percent)

(Final salaries have been adjusted to 1985 dollars)	\$15,000	\$30,000	\$45,000	\$60,000	\$75,000
Gross replacement rates:					
10 years service	15	15	15	15	15
20 years service	34	34	34	34	34
30 years service	53	53	53	53	53
35 years service	63	63	63	63	63
40 years service	72	72	72	72	72

Note. These rates are for persons retiring in the year 2030.

REPLACEMENT RATES—ADD-ON PLAN: 1 PERCENT ACCRUAL RATE; CAP WITH 1 TO 1 MATCH UP TO 5 PERCENT OF PAY; 2 PERCENT EARLY RETIREMENT REDUCTION; POSTRETIREMENT ADJUSTMENT: CPI-2

### 1.1. *Introduction*

		(Final salaries have been adjusted to 1985 dollars)			
		\$15,000	\$30,000	\$45,000	\$60,000
		\$75,000			
Retirement at:					
Age 55/30 years (gross rates):					
Total rate		38	38	38	38
(Without C.A. plan)		(23)	(23)	(23)	(23)
Pension		23	23	23	23
OASDI		0	0	0	0
C.A. plan		15	15	15	15
Total rate at age 62		57	52	48	45
(Without C.A. plan)		(42)	(37)	(33)	(30)
Pension		20	20	20	20
OASDI		22	17	13	10
C.A. plan		15	15	15	15
Total at age 80		51	46	42	39
(Without C.A. plan)		(36)	(31)	(27)	(24)
Pension		14	14	14	14
OASDI		22	17	13	10
C.A. plan		15	15	15	15
Retirement at:					
Age 62/30 years (gross rates):					
Total rate		69	64	60	56
(Without C.A. plan)		(50)	(44)	(40)	(37)
Pension		27	27	27	27
OASDI		23	18	13	10
C.A. plan		19	19	19	19
Retirement at:					
Age 62/35 years (gross rates):					
Total rate		81	75	70	66
(Without C.A. plan)		(59)	(52)	(47)	(44)
Pension		31	31	31	31
OASDI		27	21	16	12
C.A. plan		22	22	22	22
Total rate at age 65		79	73	68	64
(Without C.A. plan)		(57)	(51)	(45)	(42)
Total rate at age 80		72	65	60	57
(Without C.A. plan)		(49)	(43)	(38)	(34)
Retirement at:					
Age 62/40 years (gross rates):					
Total rate		89	82	77	73
(Without C.A. plan)		(63)	(57)	(52)	(46)
Pension		36	36	36	36
OASDI		28	21	16	12
C.A. plan		23	25	25	25
Retirement at:					
Age 65/30 years (gross rates):					
Total rate		76	69	64	61
(Without C.A. plan)		(54)	(48)	(43)	(37)
Pension		27	27	27	27
OASDI		27	21	16	12
C.A. plan		22	22	22	22
Retirement at:					
Age 67/30 years (gross rates):					
Total rate		81	74	68	64
(Without C.A. plan)		(58)	(51)	(45)	(38)
Pension		27	27	27	27
OASDI		31	24	18	14
C.A. plan		23	23	23	23

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## CONGRESSIONAL RECORD — SENATE

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REPLACEMENT RATES—ADD-ON PLAN: 1 PERCENT ACCRUAL RATE; CAP WITH 1 TO 1 MATCH UP TO 5 PERCENT OF PAY; 2 PERCENT EARLY RETIREMENT REDUCTION; POSTRETIREMENT ADJUSTMENT: CPI-2—Continued

[In percent]

	(Final salaries have been adjusted to 1985 dollars)	\$15,000	\$30,000	\$45,000	\$60,000	\$75,000
Retirement at						
Age 67/40 years (gross rates)						
Total rate		105	95	82	83	80
(Without C.A. plan)		(74)	(64)	(58)	(52)	(49)
Pension		36	36	36	36	36
OASDI		38	29	22	17	13
C.A. plan		31	31	31	31	31

Note: These rates are for persons retiring in the year 2030. Totals may not add due to rounding. CAP amounts, indexed so that level values over time are shown, assume lower annuity in early years to account for inflation.

## METHODOLOGICAL SUPPORT

## A. Cost and replacement rate models

The estimates of retirement costs and benefits presented in this analysis were generated using the Congressional Research Service's cost and replacement rate models. These computer-based actuarial models were developed by CRS with actuarial support and a Pension Valuation Language (PVL) provided under contract by Hay-Huggins, Inc., an actuarial consulting firm. It should be noted that these models project future outcomes from assumptions. While such projections are valuable tools for making relative cost and benefit comparisons, it is inappropriate to imply or to seek a degree of accuracy for them that is in principle unattainable.

## 1. Cost model

The cost model projects long-term costs of pension designs. The approach used is known as "entry age normal cost," and can be generally understood as the percentage of every paycheck that should be invested, over the total career of each employee in a group of new entrants, to pay fully for all benefits received by that group, including all eligible survivors. Normal cost is formally defined as the present value of future benefits divided by the present value of future compensation. These values are expressed as a percentage of payroll, and provide a consistent measure of relative pension costs over time.

## 2. Replacement rate model

The replacement rate model projects the percentage of gross preretirement wages replaced by gross postretirement benefits. This percentage can be shown at retirement and at various ages after retirement, with the latter expressed in values relative to purchasing power at retirement. Capital accumulation replacement rates assume the purchase of an annuity indexed to the assumed rate of inflation.

## 3. Data and assumptions

The cost and replacement rate models required the use of certain data and assumptions, in order to project cost and benefit outcomes for employees entering work in 1985 and retiring in the year 2030. A profile of the Federal workforce into the future and drawn from data of the current system, and other factors pertaining to costs and benefits were identified and assumptions about the relative weight of those factors were made. Complete documentation of the methodology, data and basis for all assumptions is available from CRS.

## 1. Demographic assumptions

Given the order of magnitude of Federal employment, fairly reliable data on the Federal workforce could be obtained, and was used whenever appropriate. The vast majority of the data used to construct a demographic profile of the Federal workforce was provided by the Office of Personnel Management (OPM). These data included career patterns, mortality and disability

rates, probability of leaving a surviving dependent, etc. Certain modifications were made to the OPM data that lessen the growth over time in the patterns of career improvement, and social security estimations of future improvements in mortality were also incorporated.

## 2. Economic assumptions

All economic assumptions were taken from the 1985 Social Security Trustees' Report under the designation, "Intermediate II-B." The II-B assumptions are most commonly accepted as being neither optimistic nor pessimistic. When the 1986 Trustee report is issued, CRS will incorporate any changes to II-B into the cost and replacement rate models. For 1985, the assumptions were annual average increases of: Interest, 6.1 percent; wages, 5.5 percent; and prices, 4.0 percent.

## 3. Behavioral assumptions

Changes in plan designs relative to one another will cause changes in behavior which in turn affect plan costs. The changes in assumed rates of retirement, separation, etc., were made by the actuarial consultant, after research and discussions with CRS staff.

## 4. The cost of Social Security

Generally, the cost of social security to its participants is the same as the tax that must be paid to the program. For these estimates, the cost of social security is the ratio of social security (OASDI) taxes to total Federal payroll over the 75-year period of the projection, evenly divided between employees and the Federal Government as employer. Under social security II-B assumptions, the benefits and taxes of the program are roughly in balance over that period, if the tax on social security benefits is treated as a revenue to the program. It should be noted, however, that some of the social security taxes on Federal payroll are not received back by Federal workers in the form of benefits because the average of Federal wages covered by social security exceeds the average covered wage in employment outside the Federal Government. Because the social security formula enhances the benefits of lower-paid workers, approximately 0.4 percent of payroll of the tax credited to social security from Federal wages is redistributed to workers outside the Federal Government. If the Federal Government is viewed, not as an employer, but in its other role as participant in the national economy, this redistributed amount could be construed as a savings.

Other differences in the pattern of payments between the present CSRS and social security are also taken into consideration when costs or replacement rates for a new plan incorporating social security are compared to the current system. The value of this difference is approximately two percent of payroll. About two-thirds of the difference is attributable to the portable rights to social security earnings credits retained by employees who leave employment with less

than a full career. The remainder of the difference, after certain offsets and overlaps are netted, is attributable to dependents' benefits payable under social security but not payable from the current CSRS. The sum of these differences in the pattern of payments has been distributed across the various benefit components of the proposal and is thus reflected in lower replacement rates at retirement (excluding benefits from capital accumulation) of about five percent of total benefits attributable to the employer share of total plan costs.

## 5. Estimated capital accumulation costs

Cost of the capital accumulation plans analyzed by CRS depend on the participation rate of individuals. Such rates, expressed as "percent of full participation," are influenced by two features of the plan: The rate at which employee payments to the capital accumulation plan are matched by employer payments, and the ceiling on employee contributions eligible for such matching dollars. Some employees will contribute the full amounts permitted by the plan specifications, others only some, still others not at all. The percent of full participation is the net average of full participation after all full, partial, and zero contributions have been combined.

The cost to the Federal Government of the capital accumulation plans is established by multiplying the matching rate specified for the plan by the estimated percent of full participation. For example, Hay-Huggins, Inc., estimated that a plan with a 50 percent employer match of employee contributions to 6 percent of pay would acquire a 55 percent average full participation. Multiplying that rate times the maximum government match (three percent) yields a Federal Government cost for the plan of 1.65 percent of pay.

This proposal includes a capital accumulation plan that permits the employees to contribute as much as 10 percent of their salaries, with the first 5 percent matched on a one for one basis. Hay-Huggins estimates that the phased vesting of 25 percent of the matching amount for years two through five would reduce the cost to the government approximately 0.03 percent, as employees who separated with less than five years of service lose portions of the matching amount. Thus, at a 60 percent rate of full participation, employees would contribute an average of approximately 3.0 percent of salary, and the Federal Government's matching cost would be approximately 3.0 percent of pay. Documentation of the method for arriving at the variable used for the capital accumulation cost assumptions is available from CRS.

Mr. ROTH. Mr. President, today Senator STEVENS and I are introducing one of the major pieces of legislation of the 99th Congress—the new supplemental retirement plan for Federal workers.